

In The Matter Of:
Roger Dean Gillispie v.
Miami Township, Ohio, et al.

Roger Dean Gillispie
November 5, 2018

Charlene Nicholas & Associates, LLC
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IN THE UNITED STATES DISTRICT COURT

7

FOR THE SOUTHERN DISTRICT OF OHIO

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- - -

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ROGER DEAN GILLISPIE,

:

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Plaintiff,

:

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vs.

:

CASE NO. 3:13-CV-416

12

MIAMI TOWNSHIP, OHIO, et al.,

:

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Defendants.

:

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- - -

15

DEPOSITION

16

of ROGER DEAN GILLISPIE, taken before me, Mary E. Wright,

17

a Registered Professional Reporter and Notary Public in

18

and for the State of Ohio at Large, as on

19

Cross-Examination, at the offices of Surdyk, Dowd and

20

Turner, 8163 Old Yankee Street, Suite C , in the City of

21

Centerville, County of Montgomery, and State of Ohio, on

22

Monday, the 5th day of November, 2018, beginning at 9:42

23

a.m.

24

- - -

25

1 APPEARANCES:

2 On Behalf of the Plaintiff:

3 DAVID B. OWENS, ESQ.
4 OMAVI SHUKUR, ESQ.
5 LOEVY AND LOEVY
311 North Aberdeen Street, 3rd Floor
Chicago, Illinois, 60607

6 On Behalf of Miami Township, Ohio:

7 CHRISTOPHER T. HERMAN, ESQ.
8 SURDYK, DOWD AND TURNER
8163 Old Yankee Street, Suite C
9 Dayton, Ohio, 45458

10 On Behalf of Matthew Scott Moore:

11 TODD M. RASKIN, ESQ.
12 MAZANEC, RASKIN AND RYDER COMPANY
100 Franklin's Row
13 34305 Solon Road
14 Cleveland, Ohio, 44139

15 On Behalf of Thomas Angel, Stephen Gray and
16 John DiPietro:

17 JONATHAN T. DETERS, ESQ.
18 SCHROEDER, MAUNDRELL, BARBIERE & POWERS
5300 Socialville Foster Road, Suite 200
Mason, Ohio, 45040

19 On Behalf of Robert Miller:

20 ANNE P. KEETON, ESQ.
21 FREUND, FREEZE AND ARNOLD
1800 Fifth Third Center
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23 Dayton, Ohio 45402
24
25

On Behalf of Richard Wolfe:

MATTHEW C. SCHULTZ, ESQ.
BRANNON AND ASSOCIATES
130 West Second Street, Suite 900
Dayton, Ohio, 45402

On Behalf of Tim Wilson and Marvin Scothorn:

PATRICK KASSON, ESQ.
REMINER COMPANY, LPA
200 Civic Center Drive, Suite 800
Columbus, Ohio, 43215

Also Present:

RICHARD WOLFE
ANDREW CLARK, CLVS, VIDEOGRAPHER

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1 VIDEOGRAPHER: We are going on the record at
2 9:42 a.m. on Monday, November 5, 2018. This will be media
3 unit number one of the deposition of Roger Dean Gillispie
4 taken by the defense in the matter of Roger Dean Gillispie
5 versus Miami Township, Ohio, et al., filed in the U.S.
6 District Court, For Southern District of Ohio, Case Number
7 3:13, dash, C as in Charles, V as in Victor, dash, 416.
8 The deposition is being held at 8163 Old Yankee Street,
9 Suite C, Dayton, 45458.

10 My name is Andrew Clark, I am the videographer,
11 and Mary Wright is the court reporter and we are from
12 Charlene Nicholas and Associates. Counsel will now state
13 their appearance and affiliation for the record.

14 MR. HERMAN: Chris Herman on behalf of the Miami
15 Township police department.

16 MR. RASKIN: Todd Raskin representing Scott
17 Moore.

18 MR. DETERS: Jon Deters representing John
19 DiPietro, Thomas Angel and -- sorry -- no, I got a brain
20 fart, sorry -- John DiPietro, Thomas Angel and --

21 MR. RASKIN: Steve Gray?

22 MR. DETERS: Steve Gray, sorry.

23 MS. KEETON: Anne Keeton representing Robert
24 Miller.

25 MR. SCHULTZ: Matt Schultz representing Richard

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1 Wolfe.

2 MR. KASSON: Patrick Kasson representing
3 Defendants Wilson and Scothorn.

4 MR. SHUKUR: Omavi Shukur representing Dean
5 Gillispie.

6 MR. OWENS: I'm David Owens, also representing
7 Dean Gillispie. I think counsel for three of the
8 defendants in this action aren't here and it's our
9 understanding they don't -- they aren't planning on being
10 present today.

11 And then also for the record, Mr. Wolfe is also
12 here again, correct, Mr. Wolfe?

13 MR. WOLFE: Yeah.

14 MR. OWENS: All right.

15 MR. WOLFE: That's correct.

16 MR. OWENS: Thank you.

17 VIDEOGRAPHER: The court reporter will now swear
18 in the witness.

19 - - -

20 ROGER DEAN GILLISPIE,
21 a witness of lawful age, having been by me first duly
22 cautioned and sworn, testified on his oath as follows:

23 - - -

24 CROSS-EXAMINATION

25 BY MR. HERMAN:

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1 Q. Good morning, Mr. Gillispie. My name is Chris
2 Herman and I represent the Miami Township police
3 department.

4 In a nice, loud clear voice, can you please tell
5 us your name and spell your last name for the record?

6 A. Dean Gillispie, D-E-A-N, G-I-L-L-I-S-P-I-E.

7 Q. Now your full name is Roger Dean Gillispie, is
8 that correct?

9 A. That's correct.

10 Q. All right. And it's my understanding that
11 amongst some friends or family, that you go by Dean, your
12 middle name?

13 A. I solely go by Dean.

14 Q. Okay. Can you please tell us your date of
15 birth?

16 A. 4/10/65.

17 Q. Mr. Gillispie, I know that you've testified in a
18 court before but I'm wondering have you ever testified in
19 a deposition before?

20 A. No, I have not.

21 Q. Okay. As you can see here, there's a video
22 camera at the end of the table here so your vid-- your
23 deposition is being videotaped today.

24 And there's also a court reporter down at the
25 end of the table. She's recording everything that all of

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1 the attorneys will ask you and all of your responses.

2 Now although we have this on video, we want to
3 make it easier for the court reporter at the end of the
4 table here to get everything that you and I say and the
5 other attorneys in this room so I'll ask that if I'm
6 putting a question to you, that you wait until the
7 question is done and then when you give your answer, I'll
8 do my best and I'll make sure that I don't talk over you
9 because it's difficult for her to try and get everything
10 that you and I are saying if we're talking together, okay?

11 A. Got it.

12 Q. Now, and then although there is -- the --
13 although this deposition is being videotaped, this is
14 unlike most interactions that we would have like in a --
15 in an informal setting so you might shake your head or nod
16 it or say uh-huh or huh-uh.

17 Just so that the record is clear, I'm going to
18 ask that you verbalize yes, no and that type of thing.
19 And if I happen to ask you is that a yes or a no, I just
20 want to make sure that the record is clear as to what your
21 answer is, okay?

22 A. Got it.

23 Q. This deposition is -- is not a race. It's not a
24 marathon. I want you to know that if at any point you
25 need to take a break, you're more than welcome to do so.

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1 The only -- the only thing that I would require
2 of you, and I think all the other attorneys here as well,
3 is that if we're in the middle of a question, that you
4 answer that question. Okay?

5 A. Yes.

6 Q. Do you have any questions for me right now?

7 A. No.

8 Q. Okay. Di-- are you taking any medication at
9 all?

10 A. I take vitamins and one small cholesterol.

11 Q. Okay. Those wouldn't impair your ability to
12 speak truthfully here today or remember events, would
13 they?

14 A. No.

15 Q. Okay. Can you tell us your current address?

16 A. 1512 Glendale Drive, Fairborn, Ohio.

17 Q. And how do you spell Glendale, is it one or two
18 words or --

19 A. G-L-E-N-D-A-L-E, one word.

20 Q. Is that a home or is it an apartment?

21 A. It's my parents' home.

22 Q. Okay. And can you tell us the names of your
23 parents please?

24 A. Roger and Juana Gillispie, J-U-A-N-A.

25 Q. They both still live with -- or -- you said it's

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1 their house. They're both still alive?

2 A. Yes, fortunately, yes. Very grateful for that.

3 Q. Your father's name is Roger. Your name is also
4 Roger. Does he have a different middle name?

5 A. Allen.

6 Q. Allen, okay. Does anybody else live at your
7 parents' house besides your mother, your father and you?

8 A. No.

9 Q. Okay. Can you please tell me how long you've
10 been living at that address presently?

11 A. Presently from -- when I got out of prison?

12 Q. Yes, yes.

13 A. December 22nd, 2011.

14 Q. Is that the only address you've had since your
15 release from prison?

16 A. Yes.

17 Q. During that time span -- and we're looking
18 almost at seven years now -- has it only been your mother,
19 your father and you that lived at that residence?

20 A. Yes. My siblings have come in for, you know,
21 vacation or just to stay for a week or two but --

22 Q. But nothing --

23 A. -- not resided there permanently, no.

24 Q. Nothing long term then?

25 A. Right.

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1 Q. Okay. On a -- on a subject of siblings, you do
2 have a few siblings, is that right?

3 A. Correct.

4 Q. Can you please tell us their names?

5 A. Jody, R-I-P-I-E, Ripie.

6 Q. How do you spell Jody?

7 A. J-O-D-Y. James, J-A-M-E-S, Gillispie. Zandra,
8 Z-A-N-D-R-A, Gillispie.

9 Q. So you have three siblings. Is -- obviously
10 Jody is married I assume?

11 A. Yes.

12 Q. Okay. And what is her husband's name?

13 A. Merive.

14 Q. Merive? M-E-R-V?

15 A. Yeah. M-E-R-I-V-E I believe.

16 Q. Okay. Your brother James, is he married?

17 A. No.

18 Q. Is he divorced?

19 A. Yes.

20 Q. Okay. Who was his ex-wife, what's her name?

21 A. He's had a couple. I don't know.

22 Q. Do you recall either of his two ex-wives' names?

23 A. Yeah, the first one, Shelly.

24 Q. Okay. Do you not recall the other one?

25 A. No.

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1 Q. Okay.

2 A. It was during my incarceration.

3 Q. Have you ever had any contact with James's
4 ex-wives at all?

5 A. Shelly.

6 Q. Okay. How recently have you had any contact
7 with Shelly Gillispie?

8 A. Probably -- the last time was probably --
9 what -- three or four months ago. She's the grandmother
10 of his -- my nephew's child so --

11 Q. So James and Shelly have children together?

12 A. They have one child.

13 Q. Okay.

14 A. Nick.

15 Q. And Nick has?

16 A. One child.

17 Q. One child.

18 A. Lane.

19 Q. Okay. So Shelly is Lane's grandmother?

20 A. Grandmother.

21 Q. Okay. And that was within the last few months
22 you said?

23 A. Yeah.

24 Q. Okay. Do you maintain any constant or regular
25 contact with Shelly at all?

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1 A. No.

2 Q. Is it just to see her at family occasions and
3 that type of thing?

4 A. Correct.

5 Q. Okay. So James and Shelly have one son and what
6 was his name again?

7 A. Nick.

8 Q. Do they have any other children?

9 A. No.

10 Q. Do Jody and Merive have any children?

11 A. No. Merive has children from a previous
12 marriage.

13 Q. Are they adults?

14 A. Yes.

15 Q. Your sister, Zandra, is she married or not?

16 A. No, divorced.

17 Q. Do you know her ex-husband's name?

18 A. Mark Whitfield.

19 Q. Do you recall the last time you've had any
20 contact with Mark Whitfield?

21 A. Telephone contact would probably be it. He
22 lives in Nebraska.

23 Q. How long ago would that have been?

24 A. I couldn't tell you.

25 Q. Is it since your release from prison?

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1 A. Oh, yes.

2 Q. Okay.

3 A. They have a child.

4 Q. Zandra and Mark have a child?

5 A. Yes.

6 Q. Is that child an adult?

7 A. Yeah.

8 Q. Your conversations with Mark Whitfield over the
9 telephone, how often are those?

10 A. Very rare.

11 Q. What type of things do you talk about with
12 Mr. Whitfield?

13 MR. OWENS: Objection. Form. Go ahead. You
14 can answer.

15 THE WITNESS: My niece.

16 BY MR. HERMAN:

17 Q. Okay. Anything else that you speak to him
18 about?

19 A. No.

20 Q. Do you ever talk to him about the criminal case
21 that is the subject matter of this lawsuit and your
22 lawsuit that you filed in the Southern District of Ohio?

23 A. No.

24 Q. What's Zandra and Mark's daughter's name?

25 A. Natalie.

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1 Q. Do Jody and Merive live in the Dayton area?

2 A. No.

3 Q. Can you tell us where they live?

4 A. Omaha, Nebraska.

5 Q. Okay.

6 A. I'm sorry, Lincoln, Nebraska.

7 Q. All right. And how often do you -- do you talk
8 over the telephone or do you get to see them at holidays,
9 how often do you see Jody and Merive?

10 A. Jody comes home two to three times a year.

11 Q. And do you talk to her on the phone occasionally
12 or through social media or e-mailing or any of that type
13 of thing?

14 A. Telephone. Text.

15 Q. Okay. How frequently do you telephone and text
16 with your sister Jody?

17 A. We were texting last night.

18 Q. Okay. Well, that's last night. Do you text on
19 a weekly basis or more often or less often?

20 A. There's a text thread that we're going back and
21 forth, all of us are on, you know, throughout the week,
22 throughout the days.

23 Q. All right. And on that text thread, is -- does
24 it include your brother James, your sister Zandra and your
25 parents?

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1 A. My parents are not texters.

2 Q. They are not?

3 A. No.

4 Q. Okay. Do they -- do your parents e-mail at all?

5 A. No.

6 Q. Okay. A land line, that's their form of
7 communication?

8 A. That's correct.

9 Q. Okay. Do you remember the last time that you
10 talked to Jody or Merive about your criminal case and the
11 civil case that you filed against Miami Township?

12 A. I wouldn't have talked to Merive about it and I
13 don't recall talking to my sister about it.

14 Q. Okay. Have you ever talked to Jody about the
15 case that we're for -- here for today?

16 MR. OWENS: Objection. Vague. Go ahead.

17 THE WITNESS: She knows about it.

18 BY MR. HERMAN:

19 Q. Okay. Have you talked to her about the claims
20 that you're raising?

21 A. No, I don't speak to them about any of this.

22 Q. Okay. Your brother James, does he also -- does
23 he live in the Dayton, area?

24 A. No, he does not.

25 Q. Where does he live?

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1 A. Niceville, Florida.

2 Q. And how often do you speak to your brother
3 James?

4 A. Same thing, the -- the thread and the -- the
5 texting thread and, you know, we talk on the phone about
6 fishing.

7 Q. Okay. Do you and James talk about this case
8 that you filed against Miami Township and the other
9 defendants?

10 MR. OWENS: Objection. Vague. Go ahead.

11 THE WITNESS: No.

12 BY MR. HERMAN:

13 Q. Have you ever talked about this case with your
14 brother James?

15 A. Like I say, they know about it. This has
16 affected my whole family.

17 Q. Okay. So if I understand you then -- well, let
18 me a-- let me go to Zandra. How often do you talk to
19 Zandra? Where does she live?

20 A. She lives in Naples, Florida now.

21 Q. Okay. Are you the only sibling still living in
22 Ohio then?

23 A. Correct.

24 Q. Okay. And the nature of your communications
25 with Zandra -- I know you've mentioned a text thread. Do

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1 you call her from time to time, does she call you at all?

2 A. Yes.

3 Q. How often would you say that is?

4 A. We speak more often than the rest because she is
5 more involved in making sure my parents are at their --
6 everything's okay with them. Other than me living there,
7 she is always in constant contact with them.

8 Q. Is Zandra the youngest --

9 A. Correct.

10 Q. -- of the four kids? And what do you mean by
11 making sure things are okay with your mother and father,
12 Roger and Juana?

13 A. Well, they want to appear strong and positive
14 and upbeat through this but it's been hell on them.

15 Q. What do you mean they want, who -- who are you
16 referring to when you say they?

17 A. My parents.

18 Q. Okay.

19 A. And they don't tell me things that I should be
20 knowing.

21 Q. What type of things are your parents keeping
22 from you that they feel you shouldn't know --

23 MR. OWENS: Objection to the form.

24 MR. HERMAN: -- if you know?

25 MR. OWENS: Sorry. Objection to the form of the

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1 question. Go ahead.

2 THE WITNESS: You know, how is their health and
3 other than just their appearance, you know, how are they
4 doing. You know, you can live with somebody and not know
5 how they're doing.

6 I do my best to see how they're doing every day
7 and try to make sure they're okay but they tell her more
8 things than they tell me. They tell her more things than
9 they tell any of us.

10 BY MR. HERMAN:

11 Q. Does Zandra share those things with you about
12 your --

13 A. It's a --

14 Q. -- mother and father's health?

15 MR. OWENS: You got to let him finish the --

16 THE WITNESS: I understand.

17 MR. OWENS: -- finish the question. I also have
18 some objections. Let me object. I object to the form of
19 the question. It's compound. Go ahead.

20 THE WITNESS: What was your question?

21 MR. HERMAN: Can you read it back to him please?

22 REPORTER: I'm sorry, he overspoke so I didn't
23 get the --

24 MR. OWENS: Can you just ask it again?

25 REPORTER: -- last -- can you just ask him

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1 again? I'm sorry.

2 MR. HERMAN: I think it was -- well, honestly, I
3 don't remember what it was.

4 MR. OWENS: You asked something about
5 conversations that he had with Zandra --

6 MR. HERMAN: That's right, that's right.

7 MR. OWENS: -- sharing with the parents.

8 MR. HERMAN: What -- does Zandra share with you
9 conversations that she has about your parents and their
10 health?

11 MR. OWENS: Objection. Form. Go ahead.

12 THE WITNESS: When it's important.

13 BY MR. HERMAN:

14 Q. Okay. What do you consider important in terms
15 of that information?

16 A. That they're not feeling well, that they might
17 need to see the doctor, that they're going to see the
18 doctor.

19 Q. Do you have a driver's license?

20 A. Yes, I do.

21 Q. Okay. How old is your father Roger?

22 A. Seventy-three. I'm sorry, he's 74.

23 Q. And your mother, how old is she?

24 A. She is 73.

25 Q. Do you -- I know you said that this has affected

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1 your -- your mother and your father. Do you mean the
2 criminal case or the civil case that you've filed against
3 the township and all the defendants?

4 MR. OWENS: Objection. Vague, but go ahead.
5 And -- and to the extent you want him to clarify a
6 question, you can ask him to clarify a question if there's
7 something that you don't understand.

8 THE WITNESS: This --

9 MR. HERMAN: Would you like to take a break,
10 Mr. Gillispie?

11 THE WITNESS: No. I was kidnapped from my home
12 for something I had absolutely nothing to do with. This
13 has a major effect on every single person in my family.

14 My sister was in high school. My brother was in
15 the military. When they took me, my mother completely
16 forgot about my sister.

17 BY MR. HERMAN:

18 Q. Who did?

19 A. My mother.

20 Q. Forgot about which sister, Zan--

21 A. Zan--

22 Q. --dra?

23 A. --dra.

24 Q. Is she the one that was in high school?

25 A. That's correct. Because of the fight she had to

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1 put up to try to save my life in prison for a crime I had
2 nothing to do with. This has a major effect on everyone
3 in my family.

4 Q. So it sounds to me that the criminal case and
5 the time that you spent in prison is having more -- had
6 more of an effect or impact on your mother and father and
7 your extended family than the fact that you filed this
8 suit, is that what you're saying?

9 A. This isn't over until this is all the way done.
10 This comes right back up in their face.

11 Q. What do you mean --

12 A. Every time we have something like this, every
13 time something is going on like this, it's right back up.
14 We have to relive this. When does it end?

15 Q. What do you mean by when this comes back up or
16 every time we have to do this?

17 A. This case. This case.

18 Q. You filed this case --

19 A. Yes, I did.

20 Q. -- is that correct? Okay.

21 A. That's correct.

22 Q. And before you filed this case, did you talk to
23 your parents and your extended family about what if any
24 impact that would have on their health and their
25 well-being?

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1 MR. OWENS: Objection to the form of the
2 question. Go ahead.

3 THE WITNESS: Yes. We knew this was probably
4 going to be a factor.

5 MR. HERMAN: And did they participate in the
6 decision for you to file a lawsuit?

7 MR. OWENS: Objection. Go ahead. It's -- it's
8 vague but go ahead.

9 THE WITNESS: Ask me that again.

10 BY MR. HERMAN:

11 Q. Did they -- did you have discussions with them
12 about the impact this may have on them and did -- did they
13 also participate with your decision making process in
14 filing this lawsuit?

15 A. I had a discussion with every one of them and
16 let them know that at some point, this was going to be
17 coming back up again.

18 Q. And they understood that?

19 A. Yes, they did.

20 Q. Okay. And did they express to you any
21 reservations about you filing this lawsuit because of the
22 toll and impact that you're claiming it had on your mother
23 or your father and your extended family?

24 MR. OWENS: Objection. It's argumentative. Go
25 ahead.

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1 THE WITNESS: I'm not claiming anything. I know
2 for a fact that it has an effect on them.

3 MR. HERMAN: Has that effect that the criminal
4 case had on your parents affected you in any way, shape or
5 form?

6 MR. OWENS: I'm sorry, I'm -- are you asking
7 about -- objection. It's vague. Whatever. I got a
8 little confused if you're asking about the impact on him
9 or the impact that -- observing parents but --

10 BY MR. HERMAN:

11 Q. You understood my question. Do you understand
12 my question?

13 A. No.

14 Q. Okay. So you've -- you've told us that the
15 criminal case impacted your mother and your father and
16 your siblings, correct?

17 A. (Witness nodded affirmatively.)

18 Q. Is that a yes?

19 A. Yes.

20 Q. Okay. Now seeing that, has that impacted you in
21 any way the way that your parents and your siblings
22 responded to the criminal case?

23 A. No.

24 Q. So you're not affected in any way by the way
25 your mother and father are responding to the criminal case

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24

1 and then this civil case?

2 A. I'm extremely affected by it, yes. It's my
3 parents.

4 Q. Okay. In fairness, a moment ago, you said that
5 you weren't affected so -- but you are affected by their
6 reactions and -- and whatnot to the case?

7 MR. OWENS: Objection to the
8 mischaracterization. I think he was actually confused. I
9 was actually confused about your question but go ahead.

10 BY MR. HERMAN:

11 Q. Mr. Gillispie, if you don't understand my
12 questions, then ask me to rephrase them, okay? If you
13 answer my question, I'm assuming you're going to -- you
14 understand it, okay?

15 A. Okay.

16 Q. Do your parents drive, do they have their
17 driver's license?

18 A. Yes.

19 Q. Okay. So in terms of them having to get to
20 doctor's appointments and that type of thing, they take
21 care of that themselves?

22 A. Depends on what the appointment is for.

23 Q. Okay. Are there times where you are taking your
24 mother and father to a doctor's appointment or something
25 of that nature?

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1 A. Yes.

2 Q. Okay. On -- what sort of appointments are you
3 having to go and take them to the doctor instead of one of
4 them going?

5 A. My mother has injections in her eyes so she
6 can't drive after that. So if my brother-- my -- my
7 father's at an appointment, I take them.

8 Q. And I know a little earlier you shared with us
9 that your parents tell your sister Zandra more about their
10 health and condition and whatnot than what they share with
11 you. Do you know why that is that they are more open with
12 Zandra and not more open with you?

13 MR. OWENS: Objection. Foundation. You can
14 answer.

15 THE WITNESS: She's the baby.

16 BY MR. HERMAN:

17 Q. And you're the oldest?

18 A. Correct.

19 Q. Okay. You have a high school degree?

20 A. Yes, I do.

21 Q. What school did you graduate from --

22 A. Fairborn.

23 Q. -- high school?

24 A. Fairborn High School.

25 Q. Class of?

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1 A. '84.

2 Q. After your gradua-- graduation from high school,
3 did you enter into college or try to get an Associate's
4 degree or get anything after your high school diploma?

5 A. Sinclair Community College.

6 Q. Okay. What years did you attend Sinclair
7 Community College?

8 A. I believe '85, '86. '85.

9 Q. And was there a certain degree that you were
10 pursuing at Sinclair?

11 A. Fire science technology.

12 Q. Okay. At that time -- so we're talking about in
13 '85 or '86 -- do you know was that an Associate's degree
14 that you were pursuing at Sinclair in fire science
15 technology?

16 A. Correct.

17 Q. Did you complete that degree work for fire
18 science technology?

19 A. Did not.

20 Q. Okay. Is there a reason that you didn't
21 complete that at Sinclair?

22 A. I got the job I was going to school for.

23 Q. What job was that?

24 A. General Motors plant protection.

25 Q. Was it a two-year degree that you were pursuing

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1 then at Sinclair?

2 A. Correct.

3 Q. And how -- how many credits short did you fall
4 of obtaining your degree from Sinclair?

5 A. I don't recall.

6 Q. What year did you get the job working for GM
7 plant protection?

8 A. I started as a intern in '84 at the Inland
9 Division.

10 Q. And just so that our record is clear, when we're
11 referring to GM, we're talking about General Motors; is
12 that correct?

13 A. That's correct.

14 Q. All right. General Motors had a pretty
15 substantial auto industry here back through the 1980s when
16 you started working as an intern there in 1985 --four,
17 correct?

18 A. Correct.

19 Q. After you started working at GM in 1984, did you
20 pursue any other degrees or certificates or anything of
21 that nature before you became incarcerated?

22 A. There was a few different requirements that I
23 went through. I couldn't tell you now what they all were.

24 Q. Do you mean requirements related to your job at
25 General Motors?

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1 A. Correct.

2 Q. Ca-- do you recall the nature of -- those
3 classes? I don't know if it wa-- it's like an education
4 or -- what's the nature of them?

5 A. They were certificate type programs you go to
6 get certified in different things.

7 Q. What type of areas or fields were you certified
8 in then back in 1984?

9 A. I can't recall.

10 Q. Okay. You mentioned fire science. Have you
11 ever had any experience with arson investigations or
12 anything of that nature, or anything related to fire
13 science?

14 A. Not on the investigation form of it, no.

15 Q. Okay.

16 A. Mostly in the maintenance of equipment.

17 Q. Is that something that you were tasked with at
18 General Motors then, maintaining fire safety equipment
19 at -- wherever you were working there?

20 A. That's correct.

21 Q. So you started in 1984 at General Motors and you
22 said that the Inland Division -- which I believe was up in
23 Vandalia, Ohio, is that right?

24 A. It was the Dayton plant.

25 Q. Okay. So were there two Inland plants, one in

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1 Vandalia and then one in Dayton?

2 A. Correct.

3 Q. And you were assigned to the Dayton Inland
4 plant?

5 A. Correct.

6 Q. Do you remember the address or what street it
7 was on?

8 A. Do not.

9 Q. Did you have -- ever have occasion to have to
10 work up at the Vandalia Inland Division while you were
11 working at General Motors?

12 A. No.

13 Q. Then can you tell us what was the job -- what
14 was your job title when you started at General Motors?

15 A. You're a -- security plant protection.

16 Q. And how did you apply for such a job?

17 A. Fill out an application.

18 Q. That's it, got an interview and then --

19 A. Yeah, it was an interview process, yeah.

20 Q. Was there any requirement that you have a high
21 school diploma or any other, you know, degrees after high
22 school?

23 A. None that I know of.

24 Q. Can you tell us what were your duties then as a
25 security plant protection employee at the Dayton Inland

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1 plant?

2 A. You were scheduled on a key round. If you were
3 on gate duty, you were scheduled for vehicle traffic in
4 and out. If you were on the fireman duty, you were inside
5 the plant maintaining fire equipment.

6 Q. So it sounds like there were three areas. You
7 said key round?

8 A. Key rounds, yes.

9 Q. Can you tell -- what does that mean? I don't
10 know -- I don't under-- I don't know what that means.

11 A. Key round is a certain point in the plant where
12 there's a key you put in and turn and it signals to the --
13 the main operator that you have been in that location and
14 observed what was going on at that time.

15 And then you go to the next key round. And it
16 makes a way throughout the plant that you've observed
17 what's going on through the plant.

18 Q. What's the purpose of observing what's going on
19 through the plant?

20 A. Any hazards, any potential fire risks.

21 Q. When did you last work for GM, do you recall
22 that date?

23 A. I do not.

24 Q. Do you recall was it before you were charged in
25 the criminal matter?

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1 MR. OWENS: Objection. Form.

2 BY MR. HERMAN:

3 Q. When I -- when I say the criminal matter, I'm
4 talking about the case involving a rape at Best Products
5 on August the 20th, 1988 and a rape that occurred up in I
6 believe Harrison Township on August the 5th, 1988.

7 So when I say the criminal case, I'm referring
8 to those and it's the case that you were charged with
9 rape, kidnapping and several other -- other charges. When
10 I say the criminal case, that's what I mean. Do you
11 understand that?

12 A. Yes.

13 Q. Okay.

14 MR. OWENS: Just to be clear, my objection, I
15 thought that question was vague with respect to what you
16 meant by before the case.

17 BY MR. HERMAN:

18 Q. So you started to work at GM in 1984 but you
19 don't recall when you stopped working for GM, correct?

20 A. Correct.

21 Q. When you were indicted in the criminal case, do
22 you recall were you still working for GM at that time?

23 A. I was not employed at General Motors.

24 Q. Okay. And correct me if my -- I'm wrong, so the
25 case filed against you was 1990 CR 2667 so the case was

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1 filed in 1990 then, is that your understanding?

2 A. Yes.

3 Q. Okay. So getting back, you said there was key
4 round, fireman and parking lot. In the time that you were
5 employed at GM, did you serve in all three of those
6 different roles?

7 A. Not parking lot but -- gate entrance.

8 Q. Gate entrance?

9 A. Gate traffic.

10 Q. Okay.

11 A. Shipping. Product shipping out the gate.

12 Q. So gate traffic, fireman and key round. If I
13 understand you then, you worked in all three of those
14 capacities while you were a security plant protection em--

15 A. Correct.

16 Q. --ployee, correct? Okay. Is there any one of
17 those that you did more often than the other?

18 A. I did equal amount of both. Due to the -- due
19 to the employment that I was in, I usually was filling in
20 vacation spots.

21 Q. So were you a full time employee when you were
22 hired on in 1984?

23 A. I -- in 1984 when I was hired on, it was as-- it
24 was called a pre-diem (phonetic) job.

25 Q. Per diem?

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1 A. Per diem. I worked 40 hours a week or more.

2 Q. At that time though, if I understand you, it was
3 to fill in vacation of other security personnel that were
4 taking vacation and type of thing?

5 A. That's usually what it was, yes. I'm -- I was
6 an employee there -- most of the guys would take time off
7 when they had fireman duty for the week.

8 Q. When you say most of the guys, who do you mean?

9 A. Most of the people that I worked with at General
10 Motors.

11 Q. Is it fair to say you were a security guard at
12 General Motors -- like -- what is the official title just
13 so that I have an understanding?

14 MR. OWENS: Objection. Compound. Go ahead.

15 THE WITNESS: It was security plant protection.
16 That's all I know.

17 BY MR. HERMAN:

18 Q. Okay. Help me understand this then. So you
19 weren't full time but you were getting full time work
20 covering other people's vacations and whatnot?

21 A. Correct.

22 Q. Okay. So did that mean that -- did you have
23 health benefits tied to your employment with GM?

24 A. No.

25 Q. Did you get to participate in the 401(k) while

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1 you were employed by GM?

2 A. No. They didn't have it.

3 Q. They didn't have it for all GM employees or they
4 didn't have it for you because you were not -- you were
5 just a vacation filler in guy?

6 A. As -- as far as I understood it, GM had a GM
7 retirement plan.

8 Q. Okay. Did you get to participate in the GM
9 retirement plan?

10 A. No.

11 Q. Were there any benefits that you received in
12 your employment at GM besides the fact that you received a
13 paycheck?

14 A. No.

15 Q. Did some of the other security plant protection,
16 if you know, get to participate in the GM benefit plan or
17 get to have health insurance?

18 A. I don't know what their status was.

19 Q. Okay. Is there some reason that -- that you --
20 that you're aware of that you didn't get to have health
21 insurance or get to participate in the benefit plan?

22 A. I don't know what the politics were.

23 Q. Can you tell us what sort of hours you would
24 have at GM then while you were working as security plant
25 protection? I know you said 40 hours a week. Was it a

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1 set schedule or it would fluctuate?

2 A. Depending on the week that I was working, it
3 could be work first shift, get off first, go in on third.
4 The hours were very staggered. I worked every shift.

5 Q. What were the hours of first shift?

6 A. I believe they were 7:00 to 3:00.

7 Q. Then second shift?

8 A. 3:00 to 11:00.

9 Q. And then third shift?

10 A. 11:00 to 7:00.

11 Q. Okay. Is there any one of those three shifts,
12 first, second or third, that you primarily worked?

13 A. No.

14 Q. Okay. So it's fair to say then that you were
15 just simply -- wherever GM had somebody taking some time
16 off, you would just be plugged into those spots on the
17 weekly work schedule?

18 A. Yes.

19 Q. And was the schedule simply that it would come
20 out every week and then you'd figure out what your
21 assignments were for that week?

22 A. Correct.

23 Q. Was it any longer duration than just one week,
24 one week, one week that you would be scheduled?

25 A. If someone took a two-week vacation, I would

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1 normally be in that whole span.

2 Q. Okay. Did you serve as security plant
3 protection at any of the other facilities besides the
4 Dayton Inland plant?

5 A. Harrison Radiator.

6 Q. Okay.

7 A. Dayton and Moraine.

8 Q. So those are two separate locations for
9 Dayton -- for Harrison Radiator, correct?

10 A. Correct.

11 Q. They had a Dayton plant, yes?

12 A. Yes.

13 Q. And a Moraine plant?

14 A. Yes.

15 Q. Okay. During all of the time that you served as
16 a security plant protection, out of those three that
17 you've identified, which one did you work the most at?
18 Inland Dayton?

19 A. I worked at Inland Dayton for four months.

20 Q. Okay. Is it fair to say that was at the
21 beginning of your employment with GM?

22 A. Correct.

23 Q. Okay. And then were you then reassigned to
24 Harrison Radiator to be at Dayton or Moraine?

25 A. Correct.

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1 Q. Did you ever go back and work for Inland after
2 you were reassigned to Harrison Radiator?

3 A. No.

4 Q. While you were working at Inland for those four
5 months do you recall the name of your immediate
6 supervisor?

7 A. Depended on what shift I was on.

8 Q. Okay. Do you recall the names of any of the
9 supervisors regardless of what shift it was? While -- and
10 I'm talking about while at Inland.

11 A. At Inland, no.

12 Q. Do you recall the names of your immediate
13 supervisors while you were working at Harrison Radiator,
14 regardless of what shift it was?

15 A. Yes.

16 Q. What were the names of those immediate
17 supervisors that you -- you can tell us?

18 A. Kepperling (phonetic).

19 Q. Is that a last name?

20 A. Yes.

21 Q. Do you know the first name?

22 A. Bob Kepperling.

23 Q. Do you know how to spell Kepperling?

24 A. No.

25 Q. Do you remember what particular shift Bob

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1 Kepperling was your supervisor?

2 A. Mostly first.

3 Q. Who else do you recall being one of your
4 supervisors at -- your immediate supervisors at Harrison
5 Radiator?

6 A. Miller.

7 Q. Is that Robert Miller?

8 A. Correct.

9 Q. One of the defendants -- defendants that you
10 named in this lawsuit, correct?

11 A. Yes.

12 Q. Do you remember what shift Robert Miller worked
13 and was your supervisor?

14 A. I don't remember what --

15 Q. Can you remember any other supervisors besides
16 Mr. Kepperling and Mr. Miller?

17 A. Gearhardt (phonetic). Don't know his first
18 name, don't remember.

19 Q. Gearhardt?

20 A. Gayheart (phonetic), Gayheart.

21 Q. How about what shift was that that you recall
22 him working --

23 A. I --

24 Q. -- and being your supervisor?

25 A. -- mostly recall third with him.

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1 Q. Do you recall any other supervisor names, your
2 immediate supervisor?

3 A. Don't recall names. I know there was a couple
4 others but I don't remember their names.

5 Q. David Burke, was he ever one of your immediate
6 supervisors?

7 A. He was next step up.

8 Q. Okay. Robert Burke, was he ever one of your
9 immediate supervisors?

10 A. Excu-- excuse-- Robert Burke was the next step
11 up.

12 Q. Okay. What about Rick Wolfe, was he ever one of
13 your immediate supervisors?

14 A. He was the next step up.

15 Q. Okay. Let's talk about these steps then so that
16 we can all have an understanding as to the hierarchy of
17 the supervisors there at GM.

18 So at -- at the bottom I guess is the security
19 plant protection. You guys are -- I'll call it boots on
20 the ground at the plant and everything, checking to make
21 sure that everything is safe?

22 A. Correct.

23 Q. Okay. So then immediately above the
24 security pla-- who's immediately above le-- above that
25 then?

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1 A. Your s-- your shift sergeants.

2 Q. So that would have been Bob Kepperling, yes?

3 A. Yes.

4 Q. Bob Miller?

5 A. Yes.

6 Q. Mr. Gayheart, who you can't recall his first
7 name?

8 A. Correct.

9 Q. And then some other supervisors who you can't
10 remember, they were the shift sergeants?

11 A. Correct.

12 Q. So is it fair to say that you reported directly
13 to your sift-- shift sergeant, whoever that happened to
14 be?

15 A. Correct.

16 Q. Okay. Who, if you know, was the next step up
17 above the shift sergeants in terms of the security at GM?

18 A. For awhile, it was Burke, Robert Burke.

19 Q. Robert Burke?

20 A. And Stapleton.

21 Q. Keith Stapleton?

22 A. Yes.

23 Q. Do you recall Robert Burke and Keith Stapleton's
24 titles at GM? I know you've shared with us shift
25 sergeants. What was the title above them?

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1 A. I don't recall what it was.

2 Q. Can I use the term security guard and security
3 instead of security plant protection and we'll
4 understand -- have that understanding then, is that okay?

5 A. That's up to you.

6 Q. Is that okay with you?

7 A. That's fine with me.

8 Q. If I use the term security guard, I mean
9 security plant protection --

10 A. Okay.

11 Q. -- okay? Do you understand?

12 A. Yes.

13 Q. Okay. So security guards would report to shift
14 sergeants, correct?

15 A. Correct.

16 Q. Would a security guard ever have to report to
17 the Robert Burkes or the Keith Stapletons in the hierarchy
18 at the security?

19 MR. OWENS: Object.

20 THE WITNESS: Sure.

21 BY MR. HERMAN:

22 Q. What would be the circumstances where a security
23 guard would be reporting two steps above them if you know?

24 A. If you had an incident of a fire or chemical
25 spills or things like that and they required more

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1 information, you would see them.

2 Q. Would you see the shift sergeant first and then
3 provide more information to the supervisors above the
4 shift sergeants?

5 A. If it was something of the nature I just spoke
6 of, they were usually on the scene with you.

7 Q. Okay. Were the shift sergeants also there if
8 it -- if it was a fire or the other things that you
9 described?

10 A. Yes.

11 Q. Okay. Is it fair to say then that in one of
12 those situations that you described, the shift sergeant
13 and the person immediately above them would still be
14 getting all that information from you, the security
15 guards, so it's not as if you skipped over the sh-- the
16 shift sergeants and went straight to their supervisor?

17 MR. OWENS: Objection. Vague.

18 THE WITNESS: He would usually do a report and
19 shift supervisor was there and whatever they done after
20 that was -- whatever was next.

21 BY MR. HERMAN:

22 Q. You shaid-- you said shift supervisor, did you
23 mean to say shift sergeants?

24 A. Correct.

25 Q. Okay.

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1 A. Same. When I say shift sergeants, you say shift
2 supervisors, they're the same.

3 Q. Okay, thanks. Can you tell us who in the
4 security structure at GM was above the Robert Burke and
5 Keith Stapletons of GM?

6 A. Rick Wolfe.

7 Q. Okay. Do you recall Rick Wolfe's title at GM
8 when you were working there?

9 A. No.

10 Q. During your time working at GM, and I'm talking
11 about Rick Wolfe's position, was Rick Wolfe the only
12 person that you knew that held that position while you
13 worked at GM?

14 A. As far as I knew at the time.

15 Q. Okay. You said at the time. Have you come to
16 learn that there were other people in that level of Rick
17 Wolfe's hierarchy at GM security?

18 A. No.

19 Q. Harrison Radiator had two sites, you said Dayton
20 and Moraine? Do you recall did Kepperling work -- well,
21 let me back up a second.

22 Can you tell me did Kepperling, Miller and
23 Gayheart, were they the shift sergeants/shift supervisors
24 for both the Dayton and Moraine Harrison Radiator plants?

25 A. They would go back and forth the same as I did.

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1 Q. Okay. So your shift sergeants weren't -- were
2 not exclusively assigned to the Dayton Harrison Radiator
3 plant or the Moraine Harrison Radiator plant, is that
4 correct?

5 A. That's the way I remember it.

6 Q. And you weren't exclusively assigned to either
7 the Dayton or the Moraine plants in your job as a security
8 guard?

9 A. Right.

10 Q. Do you recall ever having any direct contact
11 with Keith Stapleton while you were working at GM?

12 A. Yeah.

13 Q. Okay. Tell me about direct -- any direct
14 contact you would have with Keith Stapleton.

15 MR. OWENS: Objection. Form, foundation. Go
16 ahead.

17 THE WITNESS: Whatever it would entail with the
18 job.

19 BY MR. HERMAN:

20 Q. Let -- let me ask you this way. Who was in
21 charge of the schedule when they would assign security
22 guards to shifts and whatnot? Is it going to be the shift
23 sergeants or the folks that are above the shift sergeants?

24 A. I don't recall.

25 Q. You don't -- do you have any idea who was in

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1 charge of scheduling at GM for the security guards?

2 MR. OWENS: Objection. Foundation. Go ahead.

3 THE WITNESS: I don't recall.

4 BY MR. HERMAN:

5 Q. You said that you did have direct contact with
6 Keith Stapleton while you worked at GM, correct?

7 A. Yes.

8 Q. Do you recall the nature of your contacts with
9 him? Tell --

10 MR. OWENS: Objection.

11 MR. HERMAN: Tell us what you would -- why you
12 would have direct contact with him instead of one of your
13 shift sergeants.

14 MR. OWENS: Objection. Compound, vague, lack of
15 time frame. Go ahead.

16 THE WITNESS: Anything to do with the job that
17 came up that you either wrote a report on or information
18 they needed on incidents.

19 BY MR. HERMAN:

20 Q. And is there some reason that you would work
21 with Keith Stapleton then and not one of the shift
22 sergeants who were your immediate supervisor?

23 A. They were usually both at the same time.

24 Q. What do you mean they were usually both at the
25 same time, you mean your communications?

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1 A. If you had an incident in the plant, your shift
2 supervisor was usually there on scene with you. If we
3 needed to proceed on up to explain what the situation was,
4 we were usually both there because we were on scene.

5 Q. Okay. So it was never just you and Keith
6 Stapleton. It would be you, Keith Stapleton and one of
7 the security supervisors?

8 MR. OWENS: Objection to the form of the
9 question. Go ahead.

10 THE WITNESS: I can't recall any conversations,
11 you know, individually as far as --

12 BY MR. HERMAN:

13 Q. Do you know whether or not Keith Stapleton was
14 in charge of scheduling you for work as a security guard?

15 A. I don't recall.

16 Q. Do you know if Keith Stapleton was ever critical
17 of any of your work while you were employed at GM?

18 MR. OWENS: Objection. Vague. Go ahead.

19 THE WITNESS: I think everyone there was
20 critical of my work.

21 BY MR. HERMAN:

22 Q. When you say everyone, can you tell me the names
23 of everyone who you say is cri-- was critical of your
24 work?

25 A. I couldn't give you names.

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1 Q. Well, you just said everyone was critical of
2 your work. You don't know who it was?

3 A. In my opinion, all eyes were on me because I was
4 looking for a job at General Motors to be permanently
5 hired. I felt that everyone was paying attention and
6 watching what I was doing for future employment,
7 permanent.

8 Q. Were you during the time that you were employed
9 at GM, the only -- the only one looking for permanent
10 employment at GM amongst the security guards?

11 A. When I was hired in, there was four other people
12 with me.

13 Q. On -- and they were not full time, is --

14 A. Correct.

15 Q. -- that correct?

16 A. They were hired in under the same capacity that
17 I was.

18 Q. Can I call you guys fill-ins, is that fair, like
19 you would fill in for the full time guys?

20 A. I was full time employed at General Motors.

21 Q. Okay.

22 A. Full schedule. Plus overtime.

23 Q. Who were these other four folks that were in the
24 same capacity as you?

25 A. Couldn't tell you their names. I don't

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1 remember.

2 Q. Did you ever have a discussion with Keith
3 Stapleton about him being critical of any of your work at
4 GM?

5 A. I don't recall, no.

6 Q. Now you told us that all eyes were on you,
7 correct? I think that was the term that you used?

8 A. That was my opinion, yes.

9 Q. Okay. Why did you have that opinion?

10 MR. OWENS: Objection. Asked and answered. Go
11 ahead.

12 THE WITNESS: I was in a position of employment
13 for future permanent employment. Everything I did was
14 being scrutinized to make sure I was the right person for
15 employment. So yes, they were paying attention to what I
16 was doing.

17 BY MR. HERMAN:

18 Q. Did that bother you that they were paying close
19 attention to your work while you were at GM?

20 A. I knew my job. I did my job very well in my
21 opinion.

22 Q. But did that bother you that they were closely
23 watching you?

24 A. Not to any degree to affect me, no.

25 Q. Would you have annual reviews at GM, maybe like

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1 on the date of your hire, then the anniversary date?

2 A. No.

3 Q. Was there any type of feedback that you would
4 receive from any of your supervisors, be it your shift
5 supervisors or the folks above them or the -- or the Rick
6 Wolfe higher up there, any reviews or reports or anything
7 critical of your work?

8 A. I don't recall.

9 Q. Do you ever recall getting into any arguments
10 face-to-face with Keith Stapleton?

11 A. I'm not going to say arguments, no.

12 Q. What are you -- did you have a contentious
13 conversation ever with Keith Stapleton?

14 A. In my opinion, no.

15 MS. KEETON: I'm sorry, what -- no or -- I
16 didn't hear it. There was --

17 REPORTER: It came up.

18 MS. KEETON: Okay.

19 MR. HERMAN: Take a break.

20 VIDEOGRAPHER: All right. Stand by. This will
21 conclude the media unit number one. The time is
22 10:42 a.m. We are now off the record.

23 (A brief recess was taken.)

24 VIDEOGRAPHER: This will be the beginning of
25 media unit number two. The time is 10:54 a.m. We are

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1 back on the record.

2 BY MR. HERMAN:

3 Q. Mr. Gillispie, I want to talk to you now about
4 the criminal investigation in your case. You're aware
5 that Gary Bailey was the detective who was initially
6 assigned to the investigation of these case-- these
7 crimes?

8 MR. OWENS: Objection. Form. Go ahead.

9 THE WITNESS: As I understand it.

10 BY MR. HERMAN:

11 Q. Okay. Have you ever talked to Gary Bailey ever?

12 A. No.

13 Q. Okay. And there was another detective, Sergeant
14 Steven (phonetic) Fritz who was also assigned to your case
15 at the Miami Township police department.

16 My first question with respect to him is before
17 you were indicted, did you have any occasion to speak to
18 Steve Fritz?

19 MR. OWENS: Objection. Compound.

20 THE WITNESS: No.

21 BY MR. HERMAN:

22 Q. During the criminal investigation of your case,
23 you did have occasion to speak to Detective Scott Moore;
24 is that correct?

25 A. Correct.

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1 Q. Okay. Can you tell me do you recall the first
2 time that you spoke to Scott Moore?

3 A. On the telephone.

4 Q. Okay. He called you?

5 A. Correct.

6 Q. And where were you when he called?

7 A. I don't know where I was at.

8 Q. Okay. Do you recall that conversation that you
9 had with Scott Moore on the telephone?

10 A. I -- yeah, I vaguely recall it.

11 Q. Well, tell us what you remember about that
12 conversation.

13 A. Called, said he needed to talk to me about a
14 incident. Wanted me to come to the police station.

15 Q. Okay. Did he describe to you what the incident
16 was in regards to?

17 A. Never said.

18 Q. Okay. What was your response to him asking to
19 speak to you at the police department?

20 A. What it pertained to.

21 Q. Okay. And did he explicitly say anything at all
22 about what it pertained to?

23 A. No.

24 Q. Okay. Was there anything else that the two of
25 you talked about during that conversation?

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1 A. Not that I recall.

2 Q. So he invited you to come down to the police
3 station. Did you go down there?

4 MR. OWENS: Objection to the form of the
5 question. Misstates his testimony.

6 BY MR. HERMAN:

7 Q. Did you go to the police station and talk to
8 Detective Scott Moore then?

9 A. No.

10 Q. Okay. So after that first conversation over the
11 telephone, do you recall any other meetings or
12 conversations over the telephone with him?

13 A. I don't recall any.

14 Q. Do you recall being interviewed at the Miami
15 Township police department?

16 A. Yes.

17 Q. Okay. Tell me what you remember -- well, first
18 of all, who was present when you were interviewed?

19 A. Moore.

20 Q. Detective Scott Moore?

21 A. Correct.

22 Q. Was there anybody else present besides Detective
23 Scott Moore and you?

24 A. No.

25 Q. Tell us what you remember about that interview.

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1 A. He -- had a series of questions he asked me and
2 I answered them.

3 Q. Do you remember what those questions were?

4 A. Each individual question?

5 Q. Any of the questions.

6 A. He asked me where I was at on certain dates.

7 Q. Okay. Did the dates pertain to the sexual
8 assaults that occurred on August 5th and August 20th of
9 1988?

10 A. At that time, I had no clue what they pertained
11 to.

12 Q. Okay. Did you eventually have an understanding
13 that those were the dates of these rapes when he was
14 talking to you?

15 A. Well after our meeting, yes.

16 Q. Okay. Did you tell Detective Moore where you
17 were on those dates if you remember?

18 A. I told him where I thought I would have been.

19 Q. Okay. And do you remember what -- what you told
20 him where you thought you might have been?

21 A. I would have probably been at Cave Run Lake if
22 they were on the weekends.

23 Q. What other -- what else do you remember from
24 that conversation with Scott Moore? You talked about
25 where you may have been on those dates. What else?

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1 A. He did the questions. I just answered them.

2 Q. So the only answer that you remember giving him
3 is that you were at Cave Run Lake on weekends?

4 MR. OWENS: Objection to the characterization of
5 his prior testimony. Go ahead.

6 THE WITNESS: I assumed I was at Cave Run Lake.

7 BY MR. HERMAN:

8 Q. Is there anything else that sticks out in your
9 mind from that second interaction with Scott Moore?

10 A. No.

11 Q. Did you have any other meetings or conversations
12 with Scott Moore after the second one?

13 A. When he come to arrest me.

14 Q. Where were you when he came to arrest you?

15 A. At my house.

16 Q. Is that a different address from what your
17 parents are currently living at?

18 A. Correct.

19 Q. Who was with him when he came to arrest you --

20 A. I -- several people.

21 Q. -- do you recall?

22 A. No.

23 Q. Okay.

24 MR. OWENS: I think he was answering your
25 question. What was your answer?

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1 THE WITNESS: Several people. At that time, I
2 had no clue what their names were.

3 BY MR. HERMAN:

4 Q. Since that time, have you come to have an
5 understanding of who the people were that came with Scott
6 Moore to arrest you?

7 A. I -- vaguely, yes.

8 Q. Okay. What are the names of the people that you
9 vaguely think were there?

10 A. I know there was Fairborn police there. He had
11 a couple detectives with him.

12 Q. Do you remember there being anybody else from
13 the Miami Township police department besides Scott Moore?

14 A. Yeah.

15 Q. But you don't recall their names?

16 A. No.

17 Q. Where did you go after being arrested, taken to
18 jail?

19 MR. OWENS: Objection. Compound.

20 THE WITNESS: Took me to the Miami Township
21 police department and then to the county jail.

22 BY MR. HERMAN:

23 Q. Did you have any conversations with Scott Moore
24 upon your arrest?

25 A. No.

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1 Q. Did you say anything to him about why -- what am
2 I under arrest for or anything of that nature?

3 A. He stated all that when he was arresting me.

4 Q. Okay. And did you have any response to that?

5 A. What kind of response would you have to charges
6 like that?

7 Q. Did you profess your innocence or anything of
8 that nature?

9 A. I don't recall.

10 Q. Is Scott Moore the only person that you recall
11 talking to you from the Miami Township police
12 department -- well, strike that.

13 Is Scott Moore the only employee of the Miami
14 Township police department that you recall speaking to
15 during your criminal case?

16 MR. OWENS: Objection. Vague.

17 THE WITNESS: As far as I recall, I don't know.
18 I don't know who all I spoke to at that time. I don't
19 believe there was anyone else. I don't know.

20 BY MR. HERMAN:

21 Q. Okay. But just Scott Moore is all you recall?

22 A. Correct.

23 Q. Okay. You hired Dennis Lieberman as your
24 defense attorney in the criminal case, correct?

25 A. Correct.

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1 Q. Can you tell us who paid for all of his attorney
2 fees and expert witness fees and all of that during the
3 pendency of your criminal case?

4 A. My parents.

5 Q. Did you pay any of it?

6 A. After I sold my house.

7 Q. When did you sell your house?

8 A. Don't remember the dates.

9 Q. Do you remember the amount of money that you
10 paid to Dennis Lieberman's law firm in your-- their
11 defense of you in the criminal matters?

12 A. I don't recall what they were.

13 Q. Do you know anybody who would have that
14 information?

15 A. Somebody would.

16 Q. Do -- do your parents recall how much money they
17 spent?

18 A. They never stopped spending money.

19 Q. Okay. You don't know the amount of fees then?

20 A. No.

21 Q. Okay. Do you know Steven Fritz?

22 A. Yes.

23 Q. Okay. How do you know Steven Fritz?

24 A. He was -- a private investigator when I met him.

25 Q. And this was while -- he was working for a firm

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1 called the Area Wide Investigations, does that sound
2 familiar to you?

3 A. I don't recall what the name was.

4 Q. Was he the private investigator that Dennis
5 Lieberman hired for you during the criminal case?

6 MR. OWENS: Objection. Foundation. Go ahead.

7 THE WITNESS: As far as I know, yes.

8 MR. HERMAN: Okay. Do you recall the first time
9 you met with Steven Fritz?

10 THE WITNESS: I --

11 MR. OWENS: Objection.

12 BY MR. HERMAN:

13 Q. Was it -- what was your answer?

14 A. Didn't answer.

15 Q. Okay. Do you recall the first time you met with
16 Steven Fritz?

17 A. I don't recall.

18 Q. Was it before your case went -- your criminal
19 case went to trial in February of 1991?

20 A. I would assume but I'm not confident. I don't
21 know.

22 Q. Okay. Were you aware that Steven Fritz was an
23 employee at the Miami Township police department when you
24 began to work with him in your criminal case?

25 MR. OWENS: Objection to the form of the

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1 question. It's vague. Foundation. Go ahead.

2 THE WITNESS: I didn't know what his previous
3 employment was.

4 BY MR. HERMAN:

5 Q. Have you ever found out what Steven Fritz's
6 previous employment was before he served as an
7 investigator on your criminal case?

8 A. Through the 20 years of litigation, yes.

9 Q. Okay. Do you recall when the -- when you first
10 found out that Steven Fritz was working at the Miami
11 Township police department before he investigated your
12 case?

13 A. I have no clue.

14 Q. Did you have any conversation -- tell me where
15 these conversations with Steven Fritz took place.

16 MR. OWENS: Objection. Assumes facts.

17 BY MR. HERMAN:

18 Q. Do you re-- you recall having conversations with
19 Steve Fritz, is that correct?

20 A. Not -- not right at this moment, no.

21 Q. Do you remember any communications or any
22 conversations with Steven Fritz?

23 A. Me personally, no.

24 Q. Did he ever have occasion to come and visit you
25 at the Montgomery County jail pending your first criminal

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1 trial?

2 A. I don't recall any.

3 Q. Is there anything you recall about your
4 conversations or meetings with Steven Fritz before your
5 criminal trial in February of 1990 (sic)?

6 A. He was hired by my lawyer is all I -- whatever
7 communications we had was mostly through that.

8 Q. What do you mean they were mostly through that,
9 through your attorney or -- what -- what do you mean?

10 A. I didn't sit down and have personal
11 conversations with Fritz, no.

12 Q. So you never met him face-to-face?

13 A. Yes.

14 Q. Okay. When would you have met with him
15 face-to-face?

16 MR. OWENS: Objection to the form of the
17 question.

18 THE WITNESS: Whenever they said I needed to
19 meet with him.

20 BY MR. HERMAN:

21 Q. Okay. When you say they, you mean your
22 attorneys?

23 A. Correct.

24 Q. Okay. Where would these meetings occur --

25 MR. OWENS: Objection.

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1 MR. HERMAN: -- in jail, at your attorney's
2 office, where?

3 MR. OWENS: So the -- the problem is that
4 you're -- you keep saying these meetings and these
5 conversations.

6 I don't think he's testified to a number of
7 meetings or a number of conversations so I think it's
8 misleading as a question. You can answer.

9 THE WITNESS: I don't recall.

10 BY MR. HERMAN:

11 Q. Do you recall ever sitting down with your
12 attorney in a room with Steven Fritz?

13 A. I don't recall any.

14 Q. Okay. Do you recall any conversation that
15 you've had with Steven Fritz about his investigation of
16 your criminal case? And I'm sorry, while he was with the
17 Miami Township police department?

18 MR. OWENS: What -- what -- I'm sorry, can --
19 you're asking about when he was an investigator or when he
20 was a police officer?

21 BY MR. HERMAN:

22 Q. That's what -- that's why -- I meant to clarify
23 it. While Steven Fritz -- did you -- do you recall any
24 conversation that you had with Steven Fritz about Fritz
25 investigating your case while he worked at the Miami

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1 Township police department?

2 A. I don't recall any conversations.

3 Q. Do you recall Steven Fritz ever telling you that
4 he and/or Detective Gary Bailey eliminated you as a
5 suspect in your criminal case?

6 A. Never heard it.

7 Q. Do you recall having any discussions with Steven
8 Fritz about the pant size of the suspect in the criminal
9 case?

10 A. No recollection.

11 MR. OWENS: All right. Chris, maybe this --
12 while you're thinking, just -- I want it to be clear for
13 the record. I think given our Brady claims that, you
14 know, obviously his knowledge and the -- the knowledge of,
15 you know, alleged Brady material is something that I
16 think's discoverable but by allowing him to answer these
17 questions, we're not waiving more generally
18 attorney/client or work product privileges that he may
19 otherwise have that extend beyond that so --

20 MR. HERMAN: Okay.

21 MR. OWENS: -- I just want to be clear.

22 MR. RASKIN: What -- what -- what would those
23 privileges be?

24 MR. OWENS: So I think like typically --

25 MR. RASKIN: I mean I'm not talking about the

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1 privilege that you all have with your client but I'm not
2 aware of any other privileges existing.

3 MR. OWENS: Like with his criminal defense
4 attorneys?

5 MR. RASKIN: His criminal defense attorney
6 signed an affidavit.

7 MR. OWENS: Right, but I don't think that
8 means --

9 MR. RASKIN: Okay. I just want to understand.
10 I'm not here to argue with you. I just want to
11 understand.

12 Are you saying that there is some privilege that
13 you think that this plaintiff has with Mr. Lieberman that
14 you're not waiving?

15 MR. OWENS: Correct.

16 MR. RASKIN: Okay. Thank you. Just to be
17 clear, any other privilege other than the privilege that
18 you're claiming that Mr. Gillispie has with Mr. Lieberman
19 that you're not waiving? Obviously you're not waiving
20 your own attorney/client privilege with your client but
21 any others?

22 MR. OWENS: The work product privilege that
23 Mr. Lieberman might have over other things unrelated to
24 Brady. Things in his fil-- there are other criminal
25 defense attorneys -- Mr. Hoffman, Mr. Godsey who

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1 represented him in the post conviction, so I think more
2 generally, we're not waiving the attorney/client or work
3 product privileges.

4 I think that by putting at issue the -- you
5 know, the ba-- the informa-- what was known to the
6 criminal defense attorneys, obviously you're allowed to
7 explore that and if Mr. Gillispie himself knew about some
8 of that information, I think that's discoverable.

9 MR. RASKIN: Yeah, I -- again, I'm not looking
10 to have a -- a debate. I just want to understand the
11 nature of what you said. Thank you.

12 BY MR. HERMAN:

13 Q. During your -- before your criminal trials, did
14 you have occasion to review the police reports that were
15 provided to your attorneys in discovery?

16 A. I don't recall any of that.

17 Q. Have you read any of the police reports
18 concerning your criminal case in preparation for today's
19 deposition?

20 A. I've been going over these for 20 plus years.

21 Q. Okay. Would you agree with me that
22 Detective Bailey was one of the Miami Township employees
23 who was char-- charged with investigating your criminal
24 cases?

25 MR. OWENS: Objection. Foundation.

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1 MR. HERMAN: You've read the police reports,
2 correct, you said over these 20 years?

3 MR. OWENS: Objection. I -- that
4 mischaracterizes his testimony. He didn't say that he had
5 read the police reports.

6 BY MR. HERMAN:

7 Q. Have you read the police reports in your
8 criminal case?

9 A. I don't recall reading any police reports.

10 Q. Okay.

11 A. I've read the li-- the paperwork associated with
12 this but I haven't read everything.

13 Q. What do you mean by the paperwork associated
14 with this?

15 A. I have read the appeals that I have had
16 throughout the years to a certain point and then I said
17 don't send them no more, I don't want to read them.

18 MR. OWENS: Can -- I'm sorry. So it's important
19 that you don't talk to him about conversations you've had
20 with your attorney, okay?

21 BY MR. HERMAN:

22 Q. Yeah, I don't -- I don't want to talk about
23 anything that you've talked to your attorneys about, okay?
24 Yes?

25 A. Yes.

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1 Q. Okay. So is it your testimony that you don't
2 recall ever reading a police report related to your
3 criminal trials?

4 A. Ever?

5 Q. Yes.

6 A. I can't recall.

7 Q. Okay. Do you remember a woman named Tori
8 Strohman (phonetic), who you dated around 1987 or 1988?

9 A. Yes.

10 Q. Okay. I believe her last name now is Tori
11 Mitchell, do you have that understanding as well?

12 A. Correct.

13 Q. Okay. In one of your post conviction pleadings,
14 she signed an affidavit on your -- on your behalf, do you
15 know that?

16 A. I don't recall.

17 Q. Okay. Can you tell me do you recall the last
18 time you've ever had any contact with Tori Strohman
19 Mitchell?

20 A. Four months ago, three months ago.

21 Q. That was the last time that you've had contact
22 with her?

23 A. May have sent a message. I don't know.

24 Q. What was --

25 A. I can't recall.

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1 Q. What was the purpose for the two of you talking
2 four months ago?

3 A. I was in Florida where she lives and wanted to
4 see her parents.

5 Q. Did you -- did you talk about your criminal case
6 with her at all?

7 A. No.

8 Q. Did you talk about this civil case with her at
9 all?

10 A. No.

11 Q. Knowing that she filed an af-- or she signed an
12 affidavit on your behalf, I'm wondering if you took any
13 part in helping her to prepare the facts that were in that
14 affidavit?

15 A. No.

16 Q. You did not help her to prepare any of the facts
17 that are in the affidavit?

18 A. I did not.

19 Q. Okay. Do you know who did help her to prepare
20 the facts that were in that affidavit?

21 MR. OWENS: Objection to the form of the
22 question. Go ahead.

23 THE WITNESS: I don't know.

24 BY MR. HERMAN:

25 Q. Did Tori Strohman visit you at any point while

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1 you were incarcerated?

2 A. Yes.

3 Q. Okay. How often would she visit?

4 MR. OWENS: Objection. Assumes -- these
5 questions are just --

6 MR. HERMAN: You're --

7 MR. OWENS: -- unfair.

8 BY MR. HERMAN:

9 Q. Yeah. How many times did she visit you, do you
10 know?

11 A. No, I couldn't calculate them.

12 Q. Was it more than once?

13 A. Yes.

14 Q. Was it throughout the period that you were
15 incarcerated from 1991 through 2011?

16 A. Early -- early in the con-- in the time.

17 Q. Do you mean she would come to visit you in the
18 days or months or years shortly after your incarceration
19 began?

20 MR. OWENS: Objection to the form of the
21 question. Go ahead.

22 THE WITNESS: Throughout roughly the first ten
23 years.

24 MR. HERMAN: Did -- can you tell me what -- what
25 would you talk about when she would visit you at -- at

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1 prison?

2 MR. OWENS: Objection. Vague. Or -- sorry.
3 Compound. Go ahead.

4 THE WITNESS: Life.

5 BY MR. HERMAN:

6 Q. Did you talk about Scott Moore's investigation
7 of your criminal case?

8 A. Not that I recall.

9 Q. Do you recall talking to her or her te-- telling
10 you anything about Scott Moore interviewing her in
11 relation to your criminal case?

12 A. I don't recall.

13 Q. Is there a reason after about ten years after
14 your incarceration she stopped coming to visit you?

15 A. Transferred prisons.

16 Q. What was the prison that you were initially in
17 when you were incarcerated?

18 A. Warren Correctional.

19 Q. And then where were you transferred from Warren?

20 A. London Correctional.

21 Q. Okay. Do you recall her visiting you any time
22 after that transfer from Warren to London Correctional
23 Institution?

24 A. No.

25 Q. I want to turn now to your complaint that you

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1 filed against the Miami Township police department and the
2 other defendants.

3 In -- in paragraph 61, you allege that though it
4 was the department's practice and procedure to administer
5 a polygraph examination to a suspect in a sex crime case,
6 Defendant Moore refused to permit Mr. Gillispie to take a
7 polygraph examination even though he had requested one.

8 Can you tell us about that conversation that you
9 had with Scott Moore about your request to take a
10 polygraph?

11 MR. OWENS: Objection to the form of the
12 question. It's misleading and assumes that that statement
13 says that there was a conversation with Mr. Moore.

14 BY MR. HERMAN:

15 Q. Did -- did you have a conversation with
16 Detective Moore about taking a polygraph?

17 A. There was no conversation.

18 Q. Did you ask him to take a polygraph?

19 A. Yes, I did.

20 Q. And what was his answer?

21 A. I don't --

22 Q. If you re--

23 A. -- recall.

24 Q. I'm sorry, I spoke over to you. What was your
25 answer?

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1 A. I don't recall.

2 Q. As you sit here today, do you have any evidence
3 that the Miami Township police department had a practice
4 or procedure to administer a polygraph exam to a suspect
5 in a sex crime case?

6 A. I have no clue what their policy was.

7 Q. In paragraph 74 of your amended complaint, you
8 allege that the department engaged in a systematic process
9 of rigging criminal prosecutions against persons whom they
10 and/or other, quote, unquote, friends of the department,
11 and then in parentheses, like Defendant Wolfe, had
12 problems with.

13 What evidence do you have that the Miami
14 Township police department had a systematic process of
15 rigging criminal prosecutions?

16 A. I don't even understand that question.

17 Q. Do you have any evidence that the Miami Township
18 police department has rigged any criminal prosecutions?

19 A. No.

20 Q. Are there any witnesses that you can think of
21 that you may call to testify that the Miami Township
22 police department has rigged criminal prosecutions?

23 MR. OWENS: Objection. Foundation. Go ahead.

24 THE WITNESS: Not at this time, no.

25 BY MR. HERMAN:

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1 Q. I'm sorry, what?

2 A. No.

3 Q. Not at this time?

4 A. No.

5 Q. That's no, you don't have any witnesses?

6 A. I don't know of any.

7 Q. Before Scott Moore's first telephone call to you
8 before you were indicted, did you know anybody who was
9 employed at the Miami Township police department?

10 A. No.

11 Q. Before Scott Moore first called you on the phone
12 in that criminal case, had you had any interaction with
13 the Miami Township police department?

14 A. No.

15 Q. In paragraph 74 of your complaint, you allege
16 despite being warned, the department chose to approve of
17 rather than discipline its officers-- officers for the
18 widespread misconduct in the -- in the department.

19 Can you tell me when you say despite being
20 warned, what was the warning that you were referring to in
21 your complaint?

22 MR. OWENS: Objection to the form of the
23 question. This is not a verified complaint, you know
24 that, right?

25 BY MR. HERMAN:

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1 Q. Do you have ev-- any evidence that there was a
2 warning as alleged in paragraph 74 of your complaint?

3 A. I do not know.

4 Q. I'm sorry?

5 A. I do not know.

6 Q. In paragraph 75 of your complaint, you allege
7 that the department knew of and attempted to cover up the
8 misconduct of its highest ranking officers.

9 What evidence do you have that there was a
10 cover-up of misconduct on behalf of any Miami Township
11 police department officers?

12 MR. OWENS: Just for clarification, you're
13 talking about the first amended complaint --

14 MR. HERMAN: I am.

15 MR. OWENS: -- not the original complaint?

16 BY MR. HERMAN:

17 Q. I'm sorry, yes. All of these questions relate
18 to your first amended complaint, okay?

19 A. Read the question again.

20 Q. You allege that the department knew of and
21 attempted to cover up the misconduct of its highest
22 ranking officers. What evidence do you have that there
23 was a cover-up of officers' misconduct?

24 A. I don't know.

25 Q. Why have you alleged then that there was a

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1 cover-up of misconduct in your amended complaint?

2 MR. OWENS: Objection on the basis of
3 attorney/client privilege and I'm going to direct the
4 witness not to answer.

5 MR. HERMAN: Do you ha-- do you know of any
6 evidence of a cover-up at the Miami Township police
7 department?

8 MR. OWENS: You can answer that.

9 THE WITNESS: No.

10 MR. HERMAN: In your amended complaint, you
11 claim that there was a conspiracy between the Miami
12 Township police department and GM employees to frame you.
13 Why do you believe that there was a conspiracy, why do you
14 allege that?

15 MR. OWENS: Objection to the form of the
16 question. It's privileged. I'm going to direct you not
17 to answer.

18 MR. HERMAN: What evidence do you have that
19 there was a conspiracy between the Miami Township police
20 department and employees of General Motors in connection
21 with your criminal case?

22 MR. OWENS: You can answer.

23 THE WITNESS: I don't -- read the question. I
24 don't understand the question.

25 MR. HERMAN: Can you read it back to him,

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1 please?

2 (The requested question was read back.)

3 THE WITNESS: I do not know.

4 BY MR. HERMAN:

5 Q. Do you know of any witnesses that will support
6 this allegation that there was a conspiracy between Miami
7 Township police department and GM against you?

8 A. I do not know.

9 Q. You don't know who those witnesses would be?

10 A. No.

11 Q. That's a no?

12 A. No.

13 Q. Okay. I just want to make sure that everybody
14 else at the end of the room can hear you. What -- what
15 evidence do you have in support of your claim that the
16 Miami Township police department has policies, practices,
17 customs involving the suppression of exculpatory material?

18 MR. OWENS: Objection. Foundation. You can
19 answer to the extent you can.

20 THE WITNESS: I don't know.

21 BY MR. HERMAN:

22 Q. Are you aware of any other instances where the
23 Miami Township police department suppressed material in
24 any other case?

25 A. I do not know.

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1 Q. Are you aware of any practice or custom that the
2 Miami Township police department had to suppress the
3 exculpatory material in your criminal case?

4 A. I do not know.

5 Q. In count two of your suggestive identification
6 claim under section 1983, what evidence do you have that
7 the township police department had policies or practices
8 or customs or procedures designed to create a suggestive
9 identification in their photo lineups?

10 MR. OWENS: Objection to the form the question.
11 Also to the extent that it calls for information that
12 is --

13 MR. HERMAN: I'm not asking for -- comm--
14 communications that you have had with him or any of his
15 prior attorneys.

16 I'm just asking what evidence of these policies,
17 procedures, custom, practices as alleged in his
18 complaint --

19 MR. OWENS: Well --

20 MR. HERMAN: -- does he have to support that?

21 MR. OWENS: Yeah, but you said what he knows
22 about it. So if I had a conversation -- I told him here's
23 the nine things that we have to help our Mone-- Monell
24 claim, that -- that -- so if the question were what
25 information do you know apart from anything that's been

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1 communicated to you from your attorneys or if that's what
2 you want to stipulate your questions refer to, I'm fine
3 with that.

4 BY MR. HERMAN:

5 Q. I -- I don't care about what you've -- I don't
6 want you to tell me what you've talked to your attorneys
7 about, okay? Do you understand that?

8 A. Yes.

9 Q. I'm asking you do you have any evidence of any
10 policies, practices, customs or procedures by the Miami
11 Township police department related to your suggestive
12 identification claim?

13 A. I don't know.

14 Q. You don't know what the evidence is in support
15 of that claim?

16 A. I don't know what their policies are.

17 Q. Okay. Are you aware of any policies or
18 procedures or customs or practices of the Miami Township
19 police department as alleged in this case?

20 A. I don't know any of their policies, no.

21 Q. Do you know any of their procedures?

22 A. Only the ones that were practicing on me.

23 Q. Okay. What are those procedures that were
24 practiced on you that you can share with me? What
25 procedures are you talking about?

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1 A. The suggestive lineup?

2 Q. Yes.

3 A. That was definitely one.

4 Q. What was -- what was suggestive about the
5 procedure of the lineup? That's my question for you.

6 A. All the backgrounds were blue and mine was
7 yellow.

8 Q. So the color of the background in the photo
9 array, that was suggestive, is --

10 A. Correct.

11 Q. -- that your answer? Besides the color of the
12 background, was there anything else suggestive of that
13 photo array?

14 A. The photo of my whole head in the square, the
15 rest of the people from mid chest up.

16 Q. What else about that photo array?

17 A. The finish of the photo.

18 Q. What is it about the finish that you believe was
19 suggestive?

20 A. Glossy and mat finishes were used in the --

21 Q. In the photo array?

22 A. Correct.

23 Q. Okay. What else?

24 A. At this time, that's all I can think of.

25 Q. Can you identify any policy, practice or

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1 procedure from Miami Township police department regarding
2 the background of the color that's supposed to be used in
3 a photo array?

4 A. Don't know their policy.

5 Q. Okay. Are you aware of any policies or
6 procedures with -- with respect to the size of the
7 person's face that appears in a photo array?

8 A. Don't know their policy.

9 Q. Are you familiar -- can you identify any
10 policies or procedures with respect to the finish of the
11 photos that are used in the photographs?

12 A. Don't know their policy.

13 Q. You allege that the Miami Township police
14 department fabricated evidence. What evidence is it
15 you're claiming was fabricated in your criminal case?

16 MR. OWENS: Objection to the -- I think that's a
17 privileged --

18 MR. HERMAN: I don't see how.

19 MR. OWENS: -- as the way in which you asked it
20 so -- if you're saying what does this allegation refer to
21 specifically, which is how I understood the question.

22 BY MR. HERMAN:

23 Q. No. In your criminal case, are you alleging
24 that there was -- that the Miami Township police
25 department fabricated evidence?

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1 A. Yes.

2 Q. Okay. What evidence do you believe was
3 fabricated in that criminal case?

4 A. I don't recall.

5 Q. Since earlier you said that you're not -- you
6 don't know of any policies, practices or procedures from
7 Miami Township police department, is it a fair statement
8 that you then don't know about their policies, practices
9 or procedures related to this fabricated evidence claim?

10 A. I don't know any of their policies.

11 Q. Do you believe that they have a policy or a
12 procedure to fabricate evidence?

13 A. I do not know.

14 Q. Can you tell me what role the Miami Township
15 police department played in your malicious prosecution
16 claim under section 1983?

17 MR. OWENS: Objection, vague, go ahead.

18 THE WITNESS: You -- you -- repeat the question.

19 (The requested question was read back.)

20 THE WITNESS: I don't understand the question.

21 BY MR. HERMAN:

22 Q. What don't you understand about it?

23 A. What you're asking.

24 Q. You've alleged a malicious prosecution claim
25 saying that i-- other identif-- unidentified persons

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1 instigated and continued the prosecution of plaintiff
2 without probable cause and acting out of malice. That's
3 in paragraph 98 of your amended complaint.

4 Given that, can you tell me what role then the
5 Miami Township police department played in the continued
6 prosec-- prosecution of your case?

7 A. I don't know.

8 Q. And then you're not familiar with any policies
9 or procedures that it might have with respect to
10 prosecuting criminal cases, are you?

11 A. I do not know any of their policies.

12 Q. In count five of your amended complaint
13 concerning your destruction of exculpatory evidence, what
14 evidence are you claiming was destroyed in your criminal
15 case?

16 A. Rape kits.

17 Q. What's the basis of that belief?

18 MR. OWENS: Were you done answering?

19 THE WITNESS: Also hair taken from the scene.

20 BY MR. HERMAN:

21 Q. Is there any else-- anything else besides rape
22 kits and hair taken from the scene that you believe was
23 destroyed?

24 A. Not that I recall right now.

25 Q. What role do you believe the Miami Township

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1 police department took in allegedly destroying rape kits?

2 MR. OWENS: Objection. Foundation. You can
3 answer.

4 THE WITNESS: I do not know.

5 BY MR. HERMAN:

6 Q. What role do you believe the Miami Township
7 police department took in destroying -- in allegedly
8 destroying hair from the scene as you've just said?

9 A. I do not know that either.

10 Q. Are you making any claims against the Miami
11 Township police department that it failed to train its
12 officers in connection with any aspect of your criminal
13 case?

14 MR. OWENS: Objection to the form of the
15 question, the foundation.

16 BY MR. HERMAN:

17 Q. You can answer.

18 A. I don't know what their policies for training
19 were.

20 Q. My question was a little different. I'm asking
21 you are you going to make -- are you making a claim that
22 the township failed to train its officers with respect to
23 any -- any aspect of your criminal case?

24 MR. OWENS: Object to the form of the question
25 to the extent you're trying to say that his testimony

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1 alone will somehow narrow or define the scope of our
2 claims. Go ahead.

3 THE WITNESS: I don't know what their policies
4 are.

5 MR. HERMAN: Do you have a belief that the Miami
6 Township police department failed to train its officers in
7 any way, shape or form in connection with your criminal
8 case?

9 MR. OWENS: You can answer.

10 THE WITNESS: Obviously something was wrong.

11 MR. HERMAN: Well, you're going to have to
12 explain to me what you mean by obviously something was
13 wrong.

14 MR. OWENS: Ob-- objection to the form of the
15 question as argumentative.

16 BY MR. HERMAN:

17 Q. What was so obviously wrong about their
18 training?

19 A. They sent a innocent man to prison.

20 Q. And what training do you believe that they
21 should have had to, in your belief, prevent this from
22 happening?

23 A. I don't know what type of training they --

24 Q. Do you know --

25 A. -- needed.

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1 Q. I'm sorry, go ahead.

2 A. I don't know what trype of-- type of training
3 they needed. I do not know.

4 Q. Have you ever filed a wrongful prisonment --
5 imprisonment claim under Revised Code 2743.48 or any other
6 claim related to your imprisonment other than in this
7 case?

8 A. I have no clue what all was filed.

9 MR. OWENS: Are you done with the complaint?

10 MR. HERMAN: Yeah.

11 BY MR. HERMAN:

12 Q. Have you seen a mental health professional since
13 your release from prison?

14 A. No.

15 Q. Could we go off the record?

16 VIDEOGRAPHER: This will conclude the media
17 number two. The time is 11:46 hours. We are now off the
18 record.

19 (A brief recess was taken.)

20 VIDEOGRAPHER: This will be the beginning of
21 media unit number three. The time is 12:04 p.m. We are
22 now back on the record.

23 BY MR. HERMAN:

24 Q. Mr. Gillispie, I'm going to hand you what's been
25 marked as defendant's exhibit 1 and I'll represent to you

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1 that these are your responses to Miami Township's first
2 set of interrogatories.

3 And I know that before we came back on to the
4 record here, you had signed a verification page just
5 verifying that these responses are true and accurate.

6 What I'd like to do now is go through a few of
7 these and ask you some questions about those and then I
8 should be done with my part of this, okay, Mr. Gillispie?

9 A. All right.

10 Q. First of all, for the record, you acknowledge
11 that these are your responses to Miami Township's
12 interrogatories or questions?

13 A. Yes.

14 Q. You've seen this document before?

15 A. Yes.

16 Q. Okay. I want to -- turn to page six and it's
17 interrogatory number six. I won't read the interrogatory
18 out loud or anything to put it on the record but I want to
19 cover a few things that are in your answer to
20 interrogatory number six.

21 At one point here, you say that while at the
22 Montgomery County jail, you suffered a tooth injury. And
23 the scope of this question is to name -- is the name,
24 office, address and specialty of any hospital, physician,
25 practitioner, et cetera -- my question for you is so while

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1 you were -- what was this tooth injury, did -- tell us
2 about that and is this part of your damages claim, this
3 tooth injury?

4 MR. OWENS: Objection with respect to the phrase
5 damages claim but you can answer.

6 THE WITNESS: I was fed a bologna sandwich that
7 had a rock in it.

8 BY MR. HERMAN:

9 Q. Okay.

10 A. Where it probably fell on the ground and was put
11 on the bread.

12 Q. But you don't know if it fell on the ground and
13 was put on the bread, you're assuming that I assume?

14 A. I'm assuming but rocks come off the ground.

15 Q. Or people can pick them up and put them in a
16 sandwich; that's fair, too, right?

17 A. Yes.

18 Q. Okay. So you bit onto something hard in a
19 sandwich?

20 A. I bit onto a rock.

21 Q. Okay. Did you spit out a rock?

22 A. Correct.

23 Q. Okay. And did you have to have some dental work
24 with respect to biting down on that rock?

25 A. My tooth exploded.

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1 Q. Okay. Do you have a partial or a fake tooth
2 or --

3 A. I have a filling.

4 Q. A filling, okay. So you didn't lose the whole
5 tooth?

6 A. No.

7 MR. OWENS: Just remember to pause to --

8 THE WITNESS: Yes.

9 MR. OWENS: -- before -- so you're not talking
10 at the same time.

11 BY MR. HERMAN:

12 Q. Have you had any other teeth problems since that
13 incident back at the Montgomery County jail that you're
14 claiming are related to, you know, any part of this case?

15 A. At the Montgomery County jail, there was no --
16 nothing done to the tooth.

17 Q. Okay. Where did you -- when did you have that
18 tooth repaired?

19 A. After I was in prison.

20 Q. Okay. Was that at Warren County --

21 A. Warren Correctional --

22 Q. Warren --

23 A. -- Institution.

24 Q. -- Correction, okay. Did you have to pay for
25 that filling?

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1 A. With my life.

2 Q. Did you pay some sort of money for that filling?

3 A. No monetary, no.

4 Q. Further down in your answer, you talk about
5 plaintiff's-- quote, unquote, plaintiff states that after
6 falling and injuring his back, he saw a medical
7 professional at Warren Correctional Institution. Do you
8 see that?

9 A. Yeah.

10 Q. Okay. Can you tell us about this incident where
11 you fell and injured your back in -- do you recall what
12 year it was?

13 A. I don't remember the year.

14 Q. Do you remember the circumstances of you falling
15 and what was the nature of the injury to your back?

16 A. I worked in the maintenance department at Warren
17 Correctional.

18 Q. Okay.

19 A. We were taking out the acoustic ceilings that
20 were in various areas of the dayrooms in the cell blocks
21 and painting the ceilings above with black enamel paint.
22 We were on ladders painting and fell off the ladder
23 directly onto my back.

24 Q. Do you recall how high up the ladder you were?

25 A. I was more than halfway up that 8-foot ladder.

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1 Q. Okay. Tell us about -- you saw a medical
2 professional there. Did you -- you didn't have surgery or
3 anything to your back, did you?

4 A. I saw medical staff at the prison.

5 Q. What sort of treatment did you receive as re--
6 as a result of that fall?

7 A. Tylenol.

8 Q. Okay. Are you claiming any continuing back
9 injury today as you sit here?

10 A. My back has never been the same since.

11 Q. You were released from prison in December of
12 2011, correct?

13 A. Correct.

14 Q. Have you gone to any back doctors or specialists
15 for the care and treatment of that back injury?

16 A. Yes.

17 Q. What -- what's the name of the doctor that
18 you've seen related to the back injury?

19 A. I started with Dr. Dean.

20 Q. Is that who's identified later in here,
21 Dr. Jacob Dean?

22 A. Correct.

23 Q. Okay. Do you recall -- so this is after you
24 were released from prison, is that correct?

25 A. Correct.

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1 Q. Okay. Is he the only person that you saw
2 related to your back injury?

3 A. No.

4 Q. Who else did you see?

5 A. He sent me to Tuttle Rehab.

6 Q. Where is Tuttle Rehab?

7 A. Enon, Ohio.

8 Q. Okay. I want to back up. Do you remember what
9 year it was that you fell and injured your back at Warren?

10 A. I don't remember what year it was. It was very
11 early on.

12 Q. And when you say very early, just so I
13 temporally get a -- get an idea like within the first five
14 years of your incarceration or -- more?

15 A. The first five years, yes.

16 Q. Are you still -- are you doing any rehab at
17 Tuttle Rehab currently?

18 A. No.

19 Q. Okay. There's a John Accrocco, is that how you
20 pronounce his name at --

21 A. Yes.

22 Q. -- Tuttle Rehab? A-C-C-R-O-C-C-O?

23 A. Correct.

24 Q. Is he the doctor that you saw at Tuttle Rehab or
25 is he a physical therapist? I -- I don't know.

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1 A. He is a rehab physician.

2 Q. And are you still currently seeing John Accrocco
3 at Tuttle Rehab?

4 A. No.

5 Q. What were the dates of your treatment with
6 Tuttle Rehab if you recall?

7 A. I don't recall.

8 Q. Did you get this treatment in the first year or
9 two after your release from prison?

10 A. No. Due to the -- not having health care, it
11 took a while for me to get health coverage to be able to
12 see a doctor.

13 Q. But as we sit here, you don't know when you
14 first saw Jacob Dean and then were referred to Tuttle
15 Rehab?

16 A. I can't recall right now.

17 Q. There's also a Dr. Hugh Moncrief identified in
18 your response to interrogatory number six. You state here
19 that he performed surgery on your back, is that right?

20 A. That's correct.

21 Q. Do you remember what year you had the back
22 surgery?

23 A. Approximately two and a half years ago,
24 approximately.

25 Q. So maybe around 2015?

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1 A. I -- I don't know right at this time.

2 Q. Was -- was it after you filed this lawsuit in
3 2013?

4 A. That I seen?

5 Q. Dr. Moncrief for your --

6 MR. OWENS: When you --

7 MR. HERMAN: -- back surgery.

8 MR. OWENS: -- had your surgery. I'm sorry.

9 THE WITNESS: Yes.

10 BY MR. HERMAN:

11 Q. Okay.

12 A. I -- I suffered through it for my entire
13 incarceration.

14 Q. Was Dr. Moncrief's surgery successful, do you
15 have the back pain anymore?

16 A. It was successful as far as the extreme pinched
17 nerve that I had. I still have pain but it's not --
18 debilitating like it was before. It's definitely very
19 painful still but I was to the point of only being able to
20 walk ten, 15 yards at a time.

21 Q. And is this before the back surgery that you
22 were only able to walk that far?

23 A. Correct.

24 Q. You had insurance at the time that you had this
25 surgery with Dr. Moncrief?

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1 A. Yes, I did.

2 Q. Do you know what your out-of-pocket expenses
3 were for the surgery?

4 A. I don't recall what they were.

5 Q. Are you currently treating with anybody for your
6 back problems, back complaints?

7 A. At this time, no.

8 Q. I'm turning to number sev-- interrogatory number
9 seven. It begins on page six and carries over to page
10 seven.

11 Asking about psychologists, psychiatrists,
12 counselors, social workers that you've treated to in the
13 last five years.

14 In your answer, you wrote plaintiff objects to
15 this request as overbroad and intruding on the
16 attorney-psychotherapist privilege. Should plaintiff
17 disclose a retained expert concerning emotional damages,
18 plaintiff will supplement this response.

19 I -- I believe earlier I -- did I ask you if you
20 were seeing any mental health professionals?

21 MR. OWENS: You did.

22 THE WITNESS: Yes, you did.

23 BY MR. HERMAN:

24 Q. And your answer was no I believe, correct?

25 A. Correct.

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1 Q. Okay. Turning to interrogatory number eight, do
2 you see there's a highlighted part on exhibit 1?

3 A. Yes.

4 Q. Okay. Now I'll represent to you that's the
5 form -- that I got it from your attorneys, okay. So I
6 didn't highlight this at all.

7 And the question is -- who have you communicated
8 with from the Miami Township police department at any time
9 concerning the amended complaint, okay, and you write in
10 here Defendants Moore and DiPietro.

11 Now we've talked about your communications with
12 Defendant Moore. I'm now wondering what communications
13 have you had with Defendant DiPietro, if you recall any?

14 A. I don't recall.

15 Q. Aside from Detective-- Defendant Moore and
16 DiPietro, do you recall speaking to any other Miami
17 Township police department employees in connection with
18 your amended complaint or the criminal case?

19 A. I don't remember talking to -- no.

20 Q. Interrogatory number ten on page eight, it
21 continues over to page nine, and -- line six and seven,
22 from the top, you say damages related to not being able to
23 pursue his life goals, both professionally and personally.

24 MR. OWENS: Wait, on --

25 MR. HERMAN: And this --

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1 MR. OWENS: -- page nine?

2 MR. HERMAN: Yes.

3 MR. OWENS: Oh. Yeah.

4 MR. HERMAN: And this is with respect to our
5 question to you i-- to identify all damages and injur--
6 injuries. So you say here that you were unable to pursue
7 your life goals, both professionally and personally. Can
8 you please explain to me -- what life goals are you
9 talking about?

10 MR. OWENS: Just answer the question.

11 THE WITNESS: I started working when I was 15
12 years old. I wanted to be a millionaire by the time I was
13 38. I was working with a friend of my father's, building
14 houses, flipping houses.

15 I was working at General Motors. I was
16 remodeling houses for two realty companies in town, as I
17 grew. This is in the eighties -- before flipping a house
18 was a term, before it was a TV show.

19 I bought my first house when I was 21 years old,
20 when I was able to buy a house at 21 years old. The first
21 vehicle I ever bought was ordered brand new from General
22 Motors when I was 17 years old. I was driven. Driven.

23 BY MR. HERMAN:

24 Q. So one of your life goals was to make a million
25 dollars by the time you were age 38, you shared that with

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1 us, right?

2 A. That's correct.

3 Q. Any other life goals aside from, you know,
4 setting this benchmark of how much money you wanted to
5 make by the time you were age 38?

6 A. I was hoping to have my own construction
7 company. I was hoping to have a family. I'd like to had
8 a child or two. I turned 25 years old in the county jail.
9 Prime time of your life. Prime time.

10 I didn't get released from prison till I was 45
11 years old. What time do I have to pursue my goals now at
12 53 years old?

13 Q. From the time you were a teenager until your
14 incarceration at age 25, had you made any efforts to start
15 your own construction company?

16 A. I had started remodeling for two real estate
17 companies in town.

18 Q. And how long had you done that?

19 A. For a year, year and a half.

20 Q. So the remodeling/flipping houses was about a
21 year, a year and a half?

22 A. No, I started working with the house things when
23 I was old enough to drive.

24 Q. Since you were released from prison in 2011,
25 have you made any attempts to start your own construction

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1 company or pick up where you left off flipping and
2 remodeling houses?

3 A. Are your parents alive?

4 Q. I ask the questions and you answer. That's how
5 this action is.

6 A. My parents are still alive. Thank God for that.
7 I lost 20 years of being around my parents.

8 Q. My question though to you was --

9 MR. OWENS: Let him --

10 THE WITNESS: You asked me --

11 MR. OWENS: -- answer.

12 MR. HERMAN: I asked you if you've done anything
13 to start your own construction company since getting
14 released from prison.

15 MR. OWENS: I think that he's explaining what
16 he's done since his release. That might impact your
17 question if -- I mean -- I think it's a fair answer. If
18 you don't like a answer, you can ask a follow-up but you
19 got to let him answer.

20 THE WITNESS: I'm answering the question. There
21 is no amount of money to me to accept for the time I get
22 to spend with my parents now.

23 And if anyone in this room's parents are dead,
24 they would give a day's pay to talk to them for five
25 minutes, I guarantee.

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1 I have that opportunity right now. And that's
2 what I'm pursuing, time with my parents. Fishing with my
3 dad. Hunting with my dad.

4 Whatever they want to do, that's what I want to
5 do. That's the dream I'm pursuing right now. That is
6 more important to me.

7 BY MR. HERMAN:

8 Q. So have you given up on this life goal of owning
9 a construction company then due to your parents' age?

10 A. I don't give up on anything. This could come
11 later on. I don't know.

12 Q. Okay.

13 A. At this time right now, my parents are the main
14 focus. I get to visit my brother in Florida to go fishing
15 with him. Family's my focus, the people who helped get me
16 out of this.

17 Q. So the construction company has taken a back
18 seat to family now, is that what you're saying?

19 A. I've got more hopes and dreams than anybody in
20 this room.

21 Q. Okay.

22 A. More than anyone in here. There is a lot of
23 things I'd like to pursue but at this time, my parents are
24 more important.

25 Q. Further down in that answer, the second to last

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1 sentence, it begins in further answering, plaintiff states
2 that he suffered dignitary, personal and emotional harms
3 from being labeled as a sex offender and being on sex
4 offender registries after his release.

5 My question related to this is you no longer
6 ha-- are required to report as a sex offender, is that
7 correct?

8 A. That's correct.

9 Q. Okay.

10 A. November 30th of 2017, I was completely
11 exonerated of all these crimes. I was the 2,076th person
12 to be exonerated in the United States since 1989 for
13 crimes they did not commit.

14 Q. What happened on November --

15 A. I'm --

16 Q. -- thir--

17 A. -- still answering the question.

18 Q. Go ahead.

19 A. When you're put on a sex offender registry, you
20 get a mailing out if-- within a half a mile of your
21 community. Everyone in my community knew I didn't do
22 this. But you're still on that registry and that don't go
23 away.

24 It don't go away today. It didn't go away
25 yesterday. It didn't go away November 30th. There's

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1 somewhere on that Internet you could look me up as a sex
2 offender.

3 Q. Have you gotten onto the Internet and found your
4 name listed in a sexual offender registry anywhere?

5 A. I do not care what people think about me --

6 Q. And that --

7 A. -- or where I'm listed at. I don't look for
8 things like that.

9 Q. So the answer is no, you have not found your
10 name on any sex offender registries, you personally?

11 A. I have not looked for them --

12 Q. Has --

13 A. -- at any recent time.

14 Q. Has -- do you know anybody, friend, family,
15 anybody, your attorneys that -- or anybody that has said
16 hey, we found your name on a sex offender registry?

17 MR. OWENS: Objection to the form of the
18 question. You can answer -- to the extent that it doesn't
19 in-- involve any conversations you've had with your
20 attorneys. Go ahead.

21 THE WITNESS: Yeah, I don't know what they've
22 researched.

23 BY MR. HERMAN:

24 Q. What happened on November 30th, 2017 that you
25 say you were exonerated?

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1 A. The Ohio Supreme Court refused to hear the last
2 argument of the prosecutor.

3 Q. What do you mean by you were exonerated?

4 A. I was found innocent of every crime they accused
5 me of.

6 Q. Who found you innocent of every crime that you
7 were accused of?

8 A. When the Ohio Supreme Court refused to hear the
9 ruling.

10 Q. So you believe the --

11 A. The ruling was all indictments dropped with
12 prejudice on July 20 something of 2017. The prosecutor
13 appealed that to the Ohio Supreme Court. The Ohio Supreme
14 Court to-- refused to hear his argument. That's when it
15 was over.

16 Q. So has a court specifically said to you you are
17 exonerated?

18 MR. OWENS: Objection to the form of the
19 question. Go ahead.

20 THE WITNESS: There is no court who has ever
21 apologized for what they done to me. Nor do I expect it
22 to happen. The word exonerated has not come out of any
23 court official's mouth to me yet.

24 BY MR. HERMAN:

25 Q. Okay. And you've not seen it in any legal

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1 opinions of any of the courts that you were exonerated, is
2 that correct?

3 A. Legal documents, I do not -- I don't recall.

4 Q. Okay. Have you calculated the total costs and
5 expenses that you have paid for the defense of your
6 criminal cases, any appeals done by any attorneys hired
7 after that or any costs and expenses by the Ohio Innocence
8 Project, have you calculated those amounts at all that you
9 have paid or family members or friends have paid?

10 A. I haven't calculated any other than the toll
11 it's had on my life.

12 Q. So the answer is you don't know what the amount
13 of all of those monies are?

14 A. Not monetary value, no.

15 Q. Okay. If you'll turn to page 12. And at the
16 bottom is interrogatory number 16. There Miami Township
17 asked you to identify the specific date upon which you
18 learned of the supplemental reports allegedly authored by
19 Bailey and approved by Fritz as described in paragraph 49
20 of your amended complaint.

21 Your answer raises a -- an objection here that
22 it's vague and confusing. And further, that there's an
23 attorney/client privilege here.

24 What I want to know, Mr. Gillispie, is the --
25 the date you found out about these supplemental reports.

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1 I don't want to hear anything that your attorneys
2 discussed with you at any point related to those reports.
3 I just want to know what date you first learned of those
4 allegedly supplemental exculpatory reports.

5 A. I don't remember the date of it.

6 Q. Do you remember who told you about these
7 allegedly supplemental exculpatory reports?

8 MR. OWENS: So this is the -- the problem with
9 our objection. I think -- I mean there are follow-- three
10 follow-up questions I can think of to the one you just
11 asked that don't involve privilege issues like was it
12 before or after your trial, was it before or after this
13 appeal, if you would like to but that's an objectionable
14 question. I could confer with him outside about what the
15 answer is but to pre-- preserve the privilege --

16 MR. HERMAN: Well, let me ask it this way.
17 Besides your attorneys, did somebody else tell you about
18 these supplemental exculpatory reports?

19 THE WITNESS: It would only be my attorneys.

20 MR. HERMAN: Okay.

21 MR. KASSON: And David, I don't mean to
22 interrupt here but is it your -- you anticipate that
23 Dennis and Lou are going to testify in this case?

24 MR. OWENS: That what?

25 MR. KASSON: That Dennis and Lou would testify

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1 in this case as prior lawyers?

2 MR. HERMAN: Dennis Lieberman and Lou --

3 MR. OWENS: Oh.

4 MR. HERMAN: -- Hoffman.

5 MR. OWENS: Sorry. Possibly. I -- so my
6 position is that -- that their knowledge about the reports
7 is certainly discoverable, right, but -- and I think that
8 also if -- you know, if -- so -- I -- I think that --
9 Dennis probably will.

10 I don't know about Lou but -- I don't know how
11 that impacts anything with respect to the -- the answer to
12 this question unless I'm misunderstanding something about
13 the privilege.

14 MR. KASSON: I mean it just seems to me that
15 if -- if Dennis is in any way going to weigh in and say
16 look, this would have impacted how I would have done
17 things or had I learned it here or there I mean --

18 MR. RASKIN: Well, that --

19 MR. KASSON: -- that privilege is waived.

20 MR. RASKIN: You already have.

21 MR. KASSON: I don't understand how it couldn't
22 be.

23 MR. RASKIN: Yeah, in --

24 MR. KASSON: It's in the affidavit.

25 MR. RASKIN: -- the affidavit.

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1 MR. KASSON: I don't understand how that
2 privilege --

3 MR. RASKIN: I think the privilege is waived.

4 MR. KASSON: -- isn't waived. I mean it's --

5 MR. RASKIN: I don't think that's a privilege.

6 MR. KASSON: -- a close call. I mean if he's
7 going to offer any -- any testimony along those lines,
8 then it opens up kind of fair game to explore all those
9 things including --

10 MR. OWENS: Sure.

11 MR. KASSON: -- including when Fritz first
12 raised, you know, this issue and so --

13 MR. RASKIN: Well, here, I have --

14 MR. KASSON: -- I mean he clearly ought to be
15 able to testify as to when he learned from anybody about
16 this issue 'cause it's material to those things that
17 Dennis is going to testify to.

18 MR. RASKIN: Pat -- Pat, I've got Lieberman's
19 affidavit here.

20 MR. KASSON: Yeah.

21 MR. OWENS: I unders-- I understand that. I --
22 so I think that the question is like -- if you want to ask
23 him specifically did you ever have a conversation with
24 Lieberman about these reports, I'm not going to object.

25 And so -- so -- but the -- the question that you

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1 asked was broader than that, did you -- you know, so if
2 you had said did you learn about this after you were
3 convicted or before you were convicted, something like
4 that, that could do -- be a neutral way. Did you ever
5 have any conversations with Lieberman about these reports,
6 did you ever have any -- you know.

7 MR. HERMAN: I'll ask those questions then --

8 MR. OWENS: All right.

9 MR. HERMAN: -- just because Pat I think makes a
10 fair point because of the affidavits.

11 MR. OWENS: I -- I mean I'm not trying to step
12 on that actually. I agree. So I total-- I totally agree.
13 I'm -- I'm -- I understand that. I just -- I don't want a
14 broader question to -- to go beyond that.

15 MR. HERMAN: So then I'll ask you, did you learn
16 about these supplemental exculpatory reports after your
17 conviction or before your conviction?

18 MR. RASKIN: I'm going to object to the form of
19 that question.

20 MR. OWENS: You can answer.

21 BY MR. HERMAN:

22 Q. To the allegedly exculpatory --

23 A. After.

24 Q. -- reports? After your conviction.

25 MR. RASKIN: So did you change your question to

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1 allegedly --

2 MR. HERMAN: Yes, I did.

3 MR. RASKIN: -- exculpatory -- I'll withdraw the
4 objection now.

5 BY MR. HERMAN:

6 Q. Thanks. And as we were maybe alluding to, was
7 it your attorney Dennis Lieberman who told you about these
8 supplemental reports -- allegedly sup-- exculpatory
9 supplemental reports?

10 A. I don't recall.

11 Q. Do you recall if the first time you learned
12 about these allegedly exculpatory supplemental reports --
13 was it after the Ohio Innocence Project took up your case
14 on your behalf?

15 MR. OWENS: Go ahead.

16 THE WITNESS: I would probably say yes.

17 BY MR. HERMAN:

18 Q. So that would have been when Mark Godsey and Jim
19 Petro became involved with taking up your cause after your
20 conviction?

21 A. Mark Godsey started my case in '03. Jim Petro
22 didn't come on till after that, long after that.

23 Q. What are your sources of income now?

24 REPORTER: I'm sorry, I didn't --

25 THE WITNESS: I'm sorry.

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1 REPORTER: -- hear that.

2 BY MR. HERMAN:

3 Q. What are your sources of income currently?

4 A. I'm on Social Security. And I speak all over
5 the world about wrongful convictions and get a small fee
6 for that.

7 Q. What do you mean by a small fee, can you give me
8 a -- what is the number you get for your speaking
9 engagements?

10 A. Depends on where I'm speaking.

11 Q. Okay. Can you give us what is the least amount
12 you've received for a speaking engagement and the most
13 amount you've received for a speaking engagement?

14 A. From \$100 to -- you know, who -- who -- when
15 you're asking me when I get paid, I've been speaking and
16 people walk up and hand me a check, you know. How do
17 you -- what are you asking?

18 Q. Let me ask you this. So you've said -- in your
19 response to interrogatory number 24, you talk about a
20 pants size issue raised in the courts and that from time
21 to time, you talk about this during speaking engagements.

22 So my -- I guess my question to you is are you
23 being hired or asked to come and speak to a group of
24 people about your experience in this criminal case?

25 A. I'm being asked to speak about wrongful

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1 incarceration.

2 Q. And who has asked you to come and speak about
3 wrongful incarceration?

4 A. I've had everything from Rotary clubs to
5 senators.

6 Q. And are you paid for those invitations to come
7 and speak about wrongful imprisonment?

8 A. It's -- most generally, yes.

9 Q. Okay. So those times when you're invited to
10 speak about wrongful imprisonment, you said on the low end
11 it's a hundred dollars for you to come and speak but you
12 didn't give us a high end as to what amount you're paid to
13 speak about wrongful imprisonment.

14 And I don't -- I'm not talking about people
15 handing you checks on the street or anything like that.

16 A. I'm talking about people handing me checks after
17 I've spoken.

18 Q. Okay. What is the amount -- when you have a
19 speaking engagement, do you enter like an a-- agreement
20 with the person who's putting on the presentation?

21 A. No.

22 Q. Okay. What's the most amount of money that
23 you've been paid then for a speaking engagement?

24 A. Some of the universities will pay \$500.

25 Q. Okay. Is that the most that you've received is

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1 \$500?

2 A. There again, we go back to what I'm receiving
3 from people -- the -- who were in the audience. Isn't
4 that the same?

5 MR. OWENS: Just answer the question that he's
6 asked, okay?

7 BY MR. HERMAN:

8 Q. What other source of -- sources of income do you
9 have besides Social Security and getting paid for speaking
10 engagements?

11 A. None.

12 Q. Are you currently employed?

13 A. No.

14 Q. Is there a reason that you've not sought
15 employment since your release from prison?

16 A. I answered that question earlier, that I'm
17 spending time with my parents, who are in age.

18 Q. And you've been out of prison for seven years
19 now, correct?

20 A. Correct.

21 Q. Have you sought any employment like a regular
22 full time job since then?

23 A. I was on a sex offender list since I've been out
24 of prison.

25 Q. Okay.

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1 A. What kind of job do you get with that?

2 Q. My question to you was have you attempted to
3 gain any gainful employment since your release from
4 prison?

5 A. No.

6 Q. That's all the questions I have you for now but
7 I know these other folks will have some questions and may
8 be a good time to take a lunch break but I'm finished.

9 VIDEOGRAPHER: All right, stand by. This will
10 be the end of media unit number three. The time is
11 12:42 hours. We are now off the record.

12 (A lunch recess was taken.)

13 VIDEOGRAPHER: This will be the beginning of
14 media unit number four. The time is 1:32 p.m. We are now
15 back on the record.

16 CROSS-EXAMINATION

17 BY MR. RASKIN:

18 Q. Mr. Gillispie, my name is Todd Raskin. We met
19 before the -- your deposition started this morning and I
20 represent Scott Moore. So I'm going to be asking you some
21 questions this afternoon.

22 If at any time I ask you a question that's
23 unclear to you, please ask me to rephrase it or repeat it
24 'cause it's important that we communicate with one
25 another, okay?

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1 A. Okay.

2 Q. I'm probably the oldest guy in this room which
3 means I think slower than everybody else. Please give me
4 an opportunity to get my question out before you answer it
5 and I'll give you the same courtesy before asking you
6 another question, fair enough?

7 A. Yeah.

8 Q. If you need to take a break at any time, just
9 tell me, whether it's to consult with your lawyer or
10 stretch your legs, use the restroom, just tell me and
11 we'll take a break, fair enough?

12 A. Yes.

13 Q. All right, good. Am I correct, sir, that you
14 have never seen any order of any court, state or federal,
15 which declared you to be innocent of the crimes that you
16 were charged with?

17 A. That explicitly said you are innocent, no.

18 Q. Thank you. And when you say no, you mean no,
19 you have not seen such an order, is that correct?

20 A. That is correct.

21 Q. Thank you. Let me ask you some questions about
22 your knowledge of Officer -- former Officer Gary Bailey.
23 Do you know of your own knowledge what investigation, if
24 any, Mr. Bailey undertook while he was a member of the
25 Miami Township police department into the rapes which

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1 ultimately resulted in your being charged with a variety
2 of those crimes?

3 A. I don't know what his -- I do not know.

4 Q. Okay, fair enough. Do you know of your own
5 knowledge when Mr. Bailey was reassigned out of the
6 detective bureau and to a road patrol assignment at Miami
7 Township police department?

8 A. I do not know.

9 Q. Do you know for how long Mr. Bailey was assigned
10 as the primary investigator into the rapes which
11 ultimately resulted in your being charged for those
12 crimes?

13 A. I do not know.

14 Q. Do you know of your own knowledge if you were
15 ever eliminated as a potential suspect by former Officer
16 Bailey?

17 A. I do not know.

18 Q. Do you know of your own knowledge if you were
19 ever eliminated as a potential suspect by former Officer
20 Fritz?

21 A. I do not know up unto the appeals process.

22 Q. And whatever you learned in the appeals process
23 was as a result of --

24 A. After.

25 Q. Excuse me, sir.

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1 A. I'm sorry.

2 Q. Whatever you learned in the appeals process or
3 the legal process leading up to your release from prison
4 is information you got from somebody else as opposed to of
5 your own knowledge, is that true?

6 A. That is correct.

7 Q. Okay, fair enough. Do you know of your own
8 knowledge whether or not Mr. Fritz actually did any
9 investigation at all into the rapes which ultimately
10 resulted in your being charged with crimes?

11 A. I do not know.

12 Q. Do you know when Mr. Bailey left the Miami
13 Township police department?

14 A. I do not know.

15 Q. Do you know the circumstances under which he
16 left?

17 A. I do not know.

18 Q. How about Mr. Fritz, do you know when he left
19 the Miami Township police department?

20 A. Do not know that.

21 Q. Do you know the circumstances under which he
22 left?

23 A. No.

24 Q. Are you aware that Mr. Fritz's wife was also a
25 police officer with Miami Township?

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1 A. Only during the appeals process.

2 Q. But you did become aware of that?

3 A. Yes.

4 Q. What did you learn about that?

5 A. His wife worked at the police department.

6 Q. Is that all you learned?

7 A. Correct.

8 Q. Okay. So as you sit here today, you don't know
9 the circumstances under which either Mr. Bailey, Mr. Fritz
10 or Mrs. Fritz left the Miami Township police department,
11 correct?

12 A. Correct.

13 Q. Okay. I learned from your answers to some
14 questions that you were asked earlier today that you first
15 met Mr. Fritz when your criminal defense lawyer
16 Mr. Lieberman hired him to become a part of your criminal
17 defense team, is that true?

18 A. That's where I first heard his name.

19 Q. Okay. My question was a little different than
20 that. My question was when you first met him. Did --
21 did -- can you tell me when you first met Mr. Fritz
22 physically?

23 A. I don't recall when it was.

24 Q. Do -- did you meet him though?

25 A. Yes.

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1 Q. Okay. Well, did you -- did you see Mr. Fritz on
2 more than one occasion leading up to your criminal trial?

3 A. Yes.

4 Q. Help me to -- or approximate for me, if you
5 would please, the number of times that you would have met
6 with Mr. Fritz either alone or along with other members of
7 your criminal defense team leading up to your first trial.

8 A. I couldn't tell you --

9 Q. Did you --

10 A. -- how many times if -- I don't know how many
11 times we met.

12 Q. What would your best estimate be?

13 A. I would say maybe three or four times.

14 Q. Three or four times, okay.

15 A. Guessing.

16 Q. Well, I don't want you to guess but I am asking
17 for your best estimate. Would that --

18 A. Best estimate --

19 Q. -- be your best estimate?

20 A. -- would be three or four times.

21 Q. Okay. So can you explain for us how your
22 criminal defense team worked with one another when you
23 were present to observe?

24 MR. OWENS: Objection to the form of the
25 question. I'm going to instruct you not to answer.

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1 MR. RASKIN: Grounds?

2 MR. OWENS: You're -- privilege.

3 MR. RASKIN: Well, I didn't ask him to disclose
4 what was discussed. I just asked him to describe how his
5 team -- defense team worked.

6 I'm not sure that I understand that privilege
7 but if that's your instruction, I'll see if I can -- you
8 going to stand on that instruction?

9 MR. OWENS: Well, what i--

10 MR. RASKIN: We don't have speaking objections
11 here so if you can stand on that obsu-- obstruction--
12 instruction, that's fine, I'll ask another question. But
13 I'm not interested in having the same kind of speaking
14 objections that you engaged in earlier today.

15 MR. OWENS: I didn't think it was a speaking
16 objection. I thought it was an op-- attempt to meet and
17 confer to resolve a potential dispute but, you know,
18 that's why I was reaching out, not to argue with you.

19 MR. RASKIN: Okay. So then, I'll be happy to
20 consider that.

21 MR. OWENS: So -- my -- what I thought you had
22 asked was that -- what was the structure of the defense
23 team meetings, right?

24 MR. RASKIN: I think what I asked was how they
25 worked together but okay.

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1 MR. OWENS: Well, I mean --

2 MR. RASKIN: Yeah.

3 MR. OWENS: It -- it just seems like -- the --
4 if you're asking him like what was the relationship
5 between like how -- so -- why don't -- why don't you
6 just -- I'll withdraw the objection but I do think that it
7 is close to something that is covered by the privilege so
8 I think it's the next question but we'll see.

9 MR. RASKIN: Read back the question please,
10 madam reporter.

11 (The requested question was read back.)

12 THE WITNESS: It was Dennis Lieberman. That's
13 the only team that I seen was him.

14 BY MR. RASKIN:

15 Q. Is it your testimony that Mr. Lieberman was your
16 only criminal defense attorney?

17 A. No.

18 Q. Okay. So there were others that worked with
19 Mr. Lieberman?

20 A. In the courtroom.

21 Q. Okay. Did you only observe your criminal
22 defense team in the courtroom or did you have occasion to
23 observe how they worked with one another outside of the
24 courtroom as well?

25 A. Only in the courtroom.

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1 Q. Only in the courtroom. Were you ever present
2 when Mr. Lieberman gave instructions to Mr. Fritz about
3 what he wanted Mr. Fritz to do or look into?

4 A. No.

5 Q. Are you aware of any facts of your own knowledge
6 that either Mr. Bailey or Mr. Fritz individually or
7 collectively eliminated you as a suspect in the rapes?

8 A. Ask the question again.

9 Q. Sure. Are you aware of any facts of your own
10 knowledge that either Mr. Bailey or Mr. Fritz individually
11 or collectively eliminated you as a suspect in the rapes?

12 A. No.

13 Q. Are you aware of any facts that either
14 Mr. Bailey or Mr. Fritz ever communicated to Scott Moore
15 their belief that you were not a viable suspect in the
16 rapes?

17 MR. OWENS: Based upon his own knowledge?

18 MR. RASKIN: You can answer my question.

19 MR. OWENS: Well, I'll object to the -- to the
20 extent that the question is vague. Go ahead.

21 BY MR. RASKIN:

22 Q. You can answer.

23 A. To my knowledge, what they spoke about, I have
24 no idea.

25 Q. Do you know of your own knowledge when the case

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1 file was provided to Mr. Moore by either Mr. Fritz or
2 Mr. Bailey?

3 A. No idea.

4 Q. And when you say no idea, would that extend to
5 your having no knowledge of whether that occurred in 1989
6 or 1990 and if so, in what month of which year?

7 A. What is your question?

8 Q. When the case file was provided to Mr. Moore by
9 either Mr. Fritz or Mr. Bailey. You said you had no idea,
10 isn't that correct?

11 A. Correct.

12 Q. All right. So when you have no idea, does that
13 mean you don't know wha-- in what year it was provided,
14 what month it was provided?

15 MR. OWENS: Objection to the form of the
16 question. Go ahead.

17 THE WITNESS: I don't know when it happened.

18 MR. RASKIN: Okay, you can't say whether it was
19 1989 or 1990, can you?

20 MR. OWENS: Objection to the form of the
21 question.

22 BY MR. RASKIN:

23 Q. You can answer.

24 A. I don't know when it happened.

25 Q. Okay. Now I'm asking you more specifically, can

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1 you say whether or not Mr. Moore -- Mr. Bailey or
2 Mr. Fritz provided the case file to Mr. Moore in 1989?

3 A. I don't know when it was turned over to him.

4 Q. Okay. And I assume your answer with regard to
5 1990 would be the same, you don't know when he got it, is
6 that right?

7 MR. OWENS: Objection to the form of the
8 question. You can answer.

9 THE WITNESS: I don't know.

10 BY MR. RASKIN:

11 Q. Describe for us your relationship with Rick
12 Wolfe when you were both employed at General Motors.

13 A. He was the -- the head supervisor of the GM
14 Security Division.

15 Q. Had you known Mr. Wolfe before the two of you
16 worked together?

17 A. No.

18 Q. During the time that the two of you worked
19 together, was there any ill will or bad blood between the
20 two of you?

21 A. During the time we worked together?

22 Q. Yes, sir.

23 A. I felt I was heavily scrutinized.

24 Q. I believe in response to Mr. Hoffman's
25 questions, you were saying you felt you were heavily

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1 scrutinized 'cause you were amongst a group of people
2 looking to get hired permanently?

3 MR. OWENS: Objection. And just to clarify the
4 re-- for the record, I think you meant Mr. Herman.

5 MR. RASKIN: Mr. Herman --

6 MR. OWENS: Hoffman --

7 MR. RASKIN: -- I'm sorry.

8 MR. OWENS: -- was the criminal defense
9 attorney.

10 MR. RASKIN: Sorry about that. I would never --

11 MR. HERMAN: Thank you.

12 BY MR. RASKIN:

13 Q. -- insult him by being a criminal defense
14 attorney. Sorry, Chris. Let me strike that question then
15 and -- and -- and rephrase it.

16 My understanding from your earlier answers to
17 Mr. Herman's questions were that you felt you were being
18 heavily scrutinized because you were one of a group of
19 temporary employees who were seeking permanent employment
20 at General Motors. Is that a correct understanding of
21 your answer?

22 A. Yes.

23 Q. Okay. So my question was much more specific
24 than that. I'm interested in knowing whether or not there
25 was any ill will or bad blood between you and Mr. Wolfe

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1 specifically.

2 A. I feel I was being more scrutinized than the
3 rest.

4 Q. Did you not understand my question?

5 A. I understand your question. I just feel that I
6 was -- above the rest on scrutinization (sic).

7 Q. By Mr. Wolfe or generally speaking?

8 A. In general.

9 Q. Okay. Now again, I'm going to have to ask you
10 to focus on the question that I'm asking you. During the
11 time that you and Mr. Wolfe worked together, was there any
12 ill will or bad blood between you two specifically?

13 A. No.

14 Q. The campground where you would go camping in the
15 summer of 1988, was that Twin Knobs?

16 A. Correct.

17 Q. Was there any other campground in Kentucky where
18 you and your buddies would go camping throughout the
19 summer other than Twin Knobs?

20 A. A couple times, we went to Zelpo.

21 Q. Spell that for me please.

22 A. Z-E-L-P-O.

23 Q. Okay. Any others?

24 A. No.

25 Q. All right. Did there come a time when you told

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1 Detective Moore that you were camping in August of 1988 at
2 Twin Knobs campground and therefore couldn't have
3 committed the rapes?

4 MR. OWENS: Objection. Compound, vague. Go
5 ahead.

6 THE WITNESS: During his first -- having me in
7 to the police station, he asked me where I was on certain
8 dates. I said probably Kentucky.

9 BY MR. RASKIN:

10 Q. And when you said probably Kentucky, did you
11 mean camping at Twin Knobs?

12 A. Correct.

13 Q. Am I correct in understanding that you and some
14 of your friends would regularly, almost every weekend
15 during the summer of 1988, go camping at Twin Knobs in
16 Kentucky?

17 MR. OWENS: Objection. Form. Go ahead.

18 THE WITNESS: Quite a bit.

19 BY MR. RASKIN:

20 Q. Help me to unders-- I know you know what quite a
21 bit means but help me to understand what your thinking is
22 please when you say quite a bit.

23 A. Close to every weekend.

24 Q. Okay.

25 A. Not every weekend.

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1 Q. All right.

2 A. But quite a bit.

3 Q. And quite a bit means almost every weekend as
4 far as you're concerned?

5 MR. OWENS: Objection to the form of the
6 question. Go ahead.

7 THE WITNESS: Yeah.

8 BY MR. RASKIN:

9 Q. Okay. And did you believe that you had been
10 camping in Kentucky during the period which included
11 August 5th of 1988?

12 A. Ask the question again.

13 Q. Did you believe that you had been camping in
14 Kentucky during the period which included August 5th of
15 1988?

16 A. At that point in time, speaking with him, at
17 that time, I assumed that's where I would have been.

18 Q. Okay. And did you also believe, in speaking
19 with Detective Moore, that you were camping in Kentucky
20 during the period of time that encompassed August 20th of
21 1988?

22 A. I only assumed that's where I would have been.

23 Q. I see. Did you tell him that's where you
24 thought you had -- were?

25 A. Yes.

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1 Q. Okay. Are you aware of -- well, strike that.
2 And when you told Detective Moore that you believed during
3 the period that encompassed August 5th, 1988 and
4 August 20th, 1988 that you were camping in Kentucky, did
5 you mean at the Twin Knobs campground?

6 A. Correct.

7 Q. You would go camping with a group of buddies of
8 yours, is that right --

9 MR. OWENS: Objection.

10 MR. RASKIN: -- in the --

11 MR. OWENS: Go ahead. Sorry.

12 THE WITNESS: Correct.

13 MR. OWENS: Let him finish the question.

14 THE WITNESS: Yes, I know.

15 MR. OWENS: And I'll try to do better at that,
16 too.

17 BY MR. RASKIN:

18 Q. Help me to understand how that worked. And in
19 particular, my question is -- is this. Did one of your
20 group have to sign in or did you all sign in?

21 A. One person.

22 Q. Okay. And was it always the same person?

23 A. Correct.

24 Q. Who was that?

25 A. Jerry Fyffe.

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1 Q. Jerry Fyffe. And that's P-F-Y--

2 A. J-E-R-R-Y, F-Y-F-F-E.

3 Q. F-Y-F-F-E, sorry. So did you tell

4 Detective Moore that the campground wouldn't have any
5 record of you actually signing in on any weekend in the
6 summer of 1988?

7 A. No idea what their recordkeeping was.

8 Q. Well, I thought you told me only one person in
9 your group had to sign and that was Jerry Fyffe?

10 MR. OWENS: Objection to the form of the
11 question. It's argumentative. Go ahead.

12 THE WITNESS: He signed in. How they kept a
13 record after that, I don't know.

14 BY MR. RASKIN:

15 Q. Okay. Well, did you ever sign anything on any
16 weekend that you camped at Twin Knobs indicating that you
17 were one of the people camping there?

18 A. Not that I recall.

19 Q. Did you tell Detective Moore that?

20 MR. OWENS: Objection. Form. It's vague.

21 THE WITNESS: Not that I recall.

22 BY MR. RASKIN:

23 Q. Did you have any difficulty understanding my
24 question?

25 A. Ask it again.

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1 Q. Well, I'll be -- try and be more specific 'cause
2 I don't want there to be any miscommunication between us.
3 When Detective Moore interviewed you about the crimes
4 which occurred on August 5th, 1988 and August 20th, 1988,
5 did you tell him that you never signed any document at
6 Twin Knobs campground which would show that you were
7 actually there on either of those two dates?

8 MR. OWENS: Objection to the form of the
9 question. It misstates his prior testimony. Go ahead.

10 THE WITNESS: No.

11 BY MR. RASKIN:

12 Q. And I'm -- am I correct in understanding that as
13 far as you know, there never was a document that you
14 signed on either August 5th or August 20th of 1988
15 reflecting that you were present at Twin Knobs campground?

16 A. No.

17 Q. I am correct about that?

18 A. Yes.

19 Q. Thank you. Were you provided with a copy of the
20 petition for post conviction relief and new trial that was
21 filed on your behalf by Mr. Godsey and Mr. Petro?

22 A. I probably was. It depend-- I requested them
23 not to send me anything a certain point into this because
24 I couldn't take it emotionally.

25 Q. Okay. So as you sit here today, you don't know

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1 if you actually read what they filed on your behalf?

2 A. Correct.

3 Q. Okay, fair enough. Are you aware that
4 Mr. Godsey and Mr. Petro represented to the court that
5 Detective Moore lied when he testified about obtaining
6 Twin Knobs campground records?

7 A. Ask the question again.

8 Q. Are you aware that Mr. Godsey and Mr. Petro
9 represented to the court, on your behalf, that
10 Detective Moore lied when he testified about obtaining
11 Twin Knobs campground records from August of 1988?

12 A. Yes.

13 Q. Do you have any facts that you're aware of which
14 support that allegation?

15 A. Me personally, no.

16 Q. Any information that you might have about that
17 subject would have been information that you got from
18 others?

19 A. Ask your question again.

20 Q. Any information that you might have on that
21 subject, would that be information that you got from
22 others?

23 A. During the trial, it came up.

24 Q. You had two trials. During which one?

25 A. I don't recall.

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1 Q. And what is it that came up?

2 A. That he had stated that he did not go --
3 Mr. Moore -- to Kentucky to pick up receipts from the
4 campground.

5 Q. Okay. And did you come to learn that that may
6 not have been true?

7 A. Yes, I did.

8 Q. And how did you learn it?

9 A. From the campground ranger.

10 Q. And what did the ranger say?

11 A. There was an officer here just a couple days ago
12 requesting these campground records.

13 Q. And did he identify the officer?

14 A. I don't recall.

15 Q. All right. Okay. Have you now told me
16 everything you know about that topic?

17 MR. OWENS: Objection to the form of the
18 question.

19 THE WITNESS: To the best of my knowledge right
20 now.

21 BY MR. RASKIN:

22 Q. Thank you. Let me ask you about Tori Mitchell
23 Strohman -- or I guess it would be Tori Strohman Mitchell,
24 wouldn't it? Her mid-- maiden name was Strohman?

25 A. Yes.

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1 Q. Was it? Okay. She was your former girlfriend?

2 A. Yes.

3 Q. Okay. And the two of you would have sex
4 outdoors, would you?

5 A. Is that relevant?

6 MR. OWENS: Answer the question.

7 THE WITNESS: Yeah.

8 MR. RASKIN: Okay. Are you aware that -- that
9 Miss Strohman took or drove with Detective Moore to both
10 of the locations where the rapes occurred and identified
11 those locations as places where you and she had had sex
12 with one another?

13 MR. OWENS: Objection to the form of the
14 question.

15 MR. RASKIN: You can answer.

16 MR. OWENS: And lacking foundation.

17 MR. RASKIN: You can answer.

18 MR. OWENS: It's also not true but go ahead.

19 MR. RASKIN: All right, okay. I'm going to ask
20 you not to do that and if you do it again, I'm going to
21 adjourn the deposition and we're going to go to court
22 because in this district, we don't permit speaking
23 objections and we certainly don't permit that kind of
24 editorializing.

25 MR. OWENS: Well, the problem is that you've

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1 asked the witness a completely unfair question --

2 MR. RASKIN: No, no.

3 MR. OWENS: -- in my -- so --

4 MR. RASKIN: Wait -- and -- but that isn't
5 grounds for either a speaking -- even if you think that's
6 true -- which I -- I don't, but even if you think that's
7 true, David, that doesn't give you the right in the
8 context of this proceeding to either editorialize or
9 engage in speaking objections.

10 So I'm going to have to insist that you do
11 neither or I'm going to adjourn at least my portion of
12 this deposition and go to the judge and ask him to
13 instruct you not to do that and then we'll start all over
14 again. It's your call.

15 MR. OWENS: I think you've got a witness here
16 you should ask some questions to.

17 MR. RASKIN: I didn't ask for your advice. I'm
18 telling you what I'm going to do if you keep engaging in
19 the conduct that you are.

20 MR. OWENS: Sounds great.

21 MR. RASKIN: Okay. Good we understand each
22 other. Madam reporter, would you please read back that
23 question.

24 (The requested question was read back.)

25 MR. OWENS: I will restate our prior objection.

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1 THE WITNESS: I don't know.

2 BY MR. RASKIN:

3 Q. Did you and Miss Strohman have sex with one
4 another near Bear Creek on -- by Farmersville-West
5 Carrollton Road?

6 A. Not that I --

7 Q. -- when you were dating -- when you were dating?

8 A. Not that I know of.

9 Q. Okay. Are you telling me that didn't happen or
10 you just don't remember?

11 A. I didn't know the area. I don't know that it
12 happened.

13 Q. Once again, are you telling me it didn't happen
14 or you don't remember if it happened or not?

15 A. I don't recall.

16 Q. Okay, fair enough. Did you and Miss Strohman
17 have sex with one another back behind the North Dixie
18 Plaza while the two of you were dating?

19 A. No.

20 Q. That, you know for sure?

21 A. Correct.

22 Q. All right. So it would surprise you if sh--
23 if -- if she had told Detective Moore that in fact you did
24 have oral sex there and that -- and -- and -- and actually
25 drove with him and took him to that location?

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1 MR. OWENS: Objection to the form of the
2 question.

3 THE WITNESS: Very much so.

4 MR. RASKIN: Okay. Are you aware that
5 Miss Strohman told Detective Moore that the only type of
6 sex you liked was oral sex?

7 MR. OWENS: Objection to the form of the
8 question.

9 THE WITNESS: No.

10 MR. RASKIN: And that she believed that if
11 that's the only kind of sex you ever had, you'd be
12 satisfied?

13 MR. OWENS: Objection to the form of the
14 question. It's also argumentative.

15 THE WITNESS: No.

16 BY MR. RASKIN:

17 Q. You are aware that when presented with the photo
18 lineup, both of the sisters identified you as the
19 perpetrator?

20 A. I was told that.

21 Q. Okay. Did Mr. Fritz ever tell you that he had
22 concluded you were not a viable candidate as the
23 perpetrator of the rapes?

24 A. No.

25 MR. OWENS: Objection. Foundation. Go ahead.

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1 BY MR. RASKIN:

2 Q. I'm sorry?

3 A. No.

4 Q. Was Mr. Fritz a part of your criminal defense
5 team for both criminal trials?

6 A. I don't recall him -- his duties at the second
7 trial.

8 Q. Okay. But you do recall that Mr. Fritz was
9 involved with your criminal defense team as early as the
10 first trial?

11 A. Correct.

12 Q. Okay. How long were you in county jail before
13 you went to trial?

14 A. Which trial?

15 Q. First trial.

16 A. Two weeks approximately.

17 Q. And were you released on bond or were you held
18 from the time of your arrest until the time of your first
19 trial?

20 A. I was released on bond about two weeks after I
21 was arrested.

22 Q. Okay. And then how much longer -- well, strike
23 that. Bad question. From the time of your arrest until
24 the time of your first criminal trial, how long was that?

25 A. I don't know.

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1 Q. What's your best estimate?

2 A. Five months, six months.

3 Q. And Mr. Fritz worked on your criminal defense
4 team that whole time as far as you know?

5 A. I don't know when he came on.

6 Q. You were found guilty of all of the charges
7 against you in the first criminal trial on February 12th
8 of '91, is that correct?

9 A. Best I can remember, yes.

10 Q. Okay. And for all but about two weeks from the
11 time you were arrested until the time that you were
12 convicted in February 12 of 1991, you were free on bond,
13 is that right?

14 A. No.

15 Q. I must have misunderstood you then. You were
16 arrested and you spent I thought you said two weeks in
17 county jail?

18 A. Correct.

19 Q. And then you were released on bond?

20 A. Correct.

21 Q. And did you remain free on bond until your
22 conviction on February 12th?

23 A. Until my conviction on February 12th, yes,
24 correct.

25 Q. Okay. Now my understanding is the basis upon

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1 which you sought and received a new trial had to do with
2 the existence of hair evidence, is that right?

3 A. That was one of the requests.

4 Q. I'm asking for the basis upon which it was
5 granted. My understanding was it was the hair evidence.
6 Was there another basis in addition to that that you're
7 aware of?

8 A. Ask your question again.

9 Q. Sure. My understanding is that the reason that
10 you received a second trial was because of hair evidence.

11 A. Correct.

12 Q. All right.

13 A. I gotcha.

14 Q. Was there any other reason for getting a new
15 trial separate and apart from the hair evidence that
16 you're aware of?

17 A. Not that I'm aware of.

18 Q. Okay, all right. And in particular, am I
19 correct in understanding that there were crime lab reports
20 with regard to the analysis of the hair that was found on
21 the clothing of Bonnie and Connie Wise which did not match
22 yours?

23 A. Correct.

24 Q. All right. And that evidence was presented at
25 your second trial, wasn't it?

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1 A. Correct.

2 Q. And you were convicted once again at your second
3 trial, weren't you, in spite of that effort?

4 A. Correct.

5 Q. Okay. And if I understood your earlier
6 testimony -- but please correct me if I'm wrong -- you
7 were never present to hear instructions that Mr. Lieberman
8 or any other member of your criminal defense team gave to
9 Mr. Fritz about what tasks he should undertake on your
10 behalf, is that correct?

11 A. Correct.

12 Q. Okay. You -- are you aware that prior to your
13 first trial, a complete copy of the Miami Township police
14 department investigative file into the rapes was provided
15 to your defense lawyer as well as to the prosecution by
16 the Mi-- Miami Township police department?

17 MR. OWENS: Objection to the form and the
18 foundation. You can answer.

19 THE WITNESS: I don't know what was turned over
20 to anybody.

21 BY MR. RASKIN:

22 Q. Did you ever see the file? Did you ever go
23 through it?

24 A. Not that I recall.

25 Q. So as you sit here today, you cannot testify of

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1 your own knowledge what documents were provided by the
2 Miami Township police department to either your criminal
3 defense team or the prosecutor's office, comprising the
4 Mia-- the Miami Township police department investigative
5 file --

6 MR. OWENS: Same objection.

7 MR. RASKIN: -- right?

8 MR. OWENS: Sorry. Same objections.

9 THE WITNESS: Correct.

10 BY MR. RASKIN:

11 Q. You never reviewed that file as you sit here
12 today, is that correct?

13 A. Not that I know of.

14 Q. And because you don't know that you ever
15 reviewed the file, you're not prepared to tell us what its
16 contents were, are you?

17 A. I don't know what was in the file.

18 Q. Thank you. Are you aware of any efforts
19 undertaken by Mr. Fritz on your behalf to interview a
20 fellow by the name of Kevin Cobb?

21 A. No.

22 Q. Do you know who Kevin Cobb is?

23 A. I do now.

24 Q. Who is he?

25 A. He is a suspect in this case.

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1 Q. Well, who told you he was a suspect in this
2 case?

3 A. We had a --

4 MR. OWENS: Obje-- objection to the question on
5 the basis of attorney/client privilege.

6 MR. RASKIN: Well, I don't think you can do that
7 since the post petition brief specifically names the guy.
8 Where was the privilege?

9 MR. OWENS: I mean -- if you want to ask a
10 narrower question I think that it --

11 MR. RASKIN: No, I want to ask the question I
12 asked. You instruct him not to answer it, we'll ask the
13 court if your instruction's proper.

14 I don't see how you can claim privilege when his
15 lawyers made those allegations to a federal court and
16 specifically named Mr. Cobb. Be happy to cite you to the
17 page in the brief.

18 MR. OWENS: I underst-- I understand that the
19 lawyers made the arg-- sir, the problem is if the question
20 were more narrow as -- and had like a time frame or --

21 MR. RASKIN: I -- I don't have to narrow it and
22 I don't have to put a time frame on it.

23 MR. OWENS: Well -- but I'm giving you the
24 reason the -- why the question is objectionable because
25 it -- it's unclear as to which attorneys that might be

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1 swept in there.

2 It -- does that include my communications? Does
3 it include other communications that he -- where he might
4 have been made aware of it? That's the issue so -- I'll
5 instruct you not to answer that question.

6 BY MR. RASKIN:

7 Q. Okay. Has Kevin Cobb ever been charged with the
8 crimes that you were charged with and convicted of?

9 A. No.

10 Q. Do you have any facts to share with me that
11 Kevin Cobb is the subject of an ongoing investigation with
12 respect to the crimes that you were charged with and
13 convicted of?

14 A. No.

15 Q. How close in time to your first trial did you
16 have sex with Miss Strohman?

17 MR. OWENS: Objection to the form of the
18 question.

19 THE WITNESS: I don't recall.

20 BY MR. RASKIN:

21 Q. Can you -- can you narrow it down at all to a
22 matter -- was it during the time after you were arrested
23 but released on bond?

24 A. I don't recall.

25 Q. Okay. Are you aware that Mr. Lieberman has

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1 stated under oath in an affidavit that Miss Strohman
2 couldn't be called as a witness on your behalf because she
3 had recently had sex with you?

4 A. That's possible.

5 Q. Okay. And my question was are you aware that
6 that's what he said?

7 A. I don't recall.

8 Q. You don't recall what he said?

9 A. Yeah.

10 Q. I see, okay. Would that be true, assuming he
11 said it?

12 MR. OWENS: Objection. Form, foundation. Am
13 I -- do you just want me to say objection, is that --

14 MR. RASKIN: No, no. No, no.

15 MR. OWENS: Go ahead.

16 BY MR. RASKIN:

17 Q. Assuming Mr. -- let me just ask the
18 question again. Madam reporter, I'll withdraw that
19 question and reask it.

20 Assuming that Mr. Lieberman put in his affidavit
21 that he could not call Miss Strohman because she had
22 recently had sex with you and that would have been, in his
23 judgment, not favorable to your defense, would that be a
24 truthful statement based upon your recollection?

25 A. Me and Strohman had a lot of sex. I couldn't

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1 tell you the dates, times. I don't know.

2 Q. Okay. You don't have any reason to doubt what
3 Mr. Lieberman's --

4 A. No.

5 Q. -- statements are?

6 A. Sorry.

7 Q. Okay. According to the sworn statement of
8 Detective Moore, he first began to investigate the rape,
9 abduction and aggravated robbery of Connie and Bonnie Wise
10 on June 18, 1990. Do you have any facts from which to
11 conclude that that's not true?

12 A. I don't know when he started it.

13 Q. Okay. According to the sworn statement of
14 Detective Moore -- former Detective Moore, in order to
15 begin his investigation, he reviewed the entire Miami
16 Township police department file, including all reports
17 authored by either former detective Sergeant Fritz or
18 former Detective Bailey. Do you have any facts to show
19 with me that that's not true?

20 A. No.

21 Q. According to the sworn statement of
22 Detective Moore -- former Detective Moore, upon review of
23 the Miami Township police department file, he did not see
24 any reports authored by either detectives -- former
25 Detective Fritz or Bailey even making reference to you as

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1 a suspect, let alone eliminating you as a suspect. Do you
2 have any facts to share with me to the contrary?

3 MR. OWENS: Objection to the foundation of the
4 question. Go ahead.

5 THE WITNESS: I don't know.

6 MR. RASKIN: According to former
7 Detective Moore's sworn statement that during the course
8 of his investigation into the crimes committed against --
9 the two sisters, he never saw a report authored by either
10 Bailey or Fritz referring to you or eliminating you as a
11 suspect. Do you have any facts to share with me that
12 that's not true?

13 MR. OWENS: Objection. Foundation.

14 THE WITNESS: I don't know what he saw.

15 BY MR. RASKIN:

16 Q. Okay. So the answer's no, you have no facts?

17 A. I have no facts.

18 Q. Thank you.

19 MR. OWENS: Objection to the form of the last
20 question.

21 BY MR. RASKIN:

22 Q. You testified earlier that you received a
23 telephone call from former Detective Moore asking you to
24 speak with him down at the station and that was your first
25 contact with Detective Moore, is that right?

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1 A. Correct.

2 Q. Prior to that telephone call, had you ever met
3 Scott Moore?

4 A. No.

5 Q. Had you ever met Scott Moore's father --

6 A. No.

7 Q. -- who was the chief of police at the time?

8 MR. OWENS: Objection to the foundation. The
9 police of chief at what time? So that you know.

10 BY MR. RASKIN:

11 Q. Did you understand my question?

12 A. What's your question?

13 Q. Okay. I believe I asked you if prior to
14 receiving the telephone call from Scott Moore, you had
15 ever met him before and I think your answer was no, you
16 hadn't, is that right?

17 A. Correct.

18 Q. Prior to receiving the telephone call from Scott
19 Moore, had you ever met his father, who was also with the
20 Miami Township police department?

21 A. No.

22 Q. Thank you. As far as you knew, did you know
23 anyone -- strike that. Far as you knew, did you have any
24 common acquaintances with Scott Moore?

25 A. No.

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1 Q. Do you have any reason to believe that
2 Scott Moore would have harbored any ill will or bad
3 feelings or animus towards you at all?

4 MR. OWENS: Objection. Foundation. Go ahead.

5 THE WITNESS: I don't know what his feelings
6 toward me were.

7 BY MR. RASKIN:

8 Q. Well, you never met him before, right?

9 A. Correct.

10 Q. He never met you before, right?

11 A. Correct, far as I know.

12 Q. Right, so wouldn't be any reason for either one
13 of you to have any ill will or bad feelings towards the
14 other since you never met each other before, right?

15 MR. OWENS: Objection. Foundation.

16 THE WITNESS: Correct.

17 BY MR. RASKIN:

18 Q. You testified that you were initially in the
19 Warren Correctional facility; is that right?

20 A. Correct.

21 Q. Is that the proper name of it?

22 A. Warren Correctional Institution.

23 Q. Warren Correctional Institution. And what level
24 of offenders does that institution house or did it house
25 when you were there?

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1 A. When I was there, it was a close security.

2 Q. And how long were you in Warren?

3 A. Approximately ten years.

4 Q. What -- was it -- double bunk to a cell?

5 A. Correct.

6 Q. Were you assigned to the same cell mate during
7 the entire ten years you were there?

8 A. No.

9 Q. How many cell mates did you have?

10 A. Couldn't give you a number.

11 Q. I'm taking from that, it's a fair number?

12 A. Quite a few.

13 Q. Quite a few, okay. Ever any violence between
14 you and your cell mates in Warren?

15 A. No.

16 Q. Were you ever -- during your approximate ten
17 years of incarceration in Warren, were you ever
18 disciplined?

19 A. What form of discipline are you speaking on?

20 Q. Any form of discipline. Were you ever
21 disciplined for violating the rules and regulations of the
22 institution?

23 A. I'm sure there was a few. I was in there for
24 ten years.

25 Q. Warren have a hole?

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1 A. Yes.

2 Q. Were you ever sent to the hole?

3 A. On a couple occasions.

4 Q. For what infractions?

5 A. I worked in the maintenance department.

6 Whenever a tool was missing, everyone went to the hole
7 until they found the tool.

8 Q. As best as you can recall, how many times were
9 you in the hole?

10 A. Three, maybe four.

11 Q. What was the longest duration?

12 A. For the day.

13 Q. For the -- only for the day?

14 A. Yes.

15 Q. Were you ever in the hole for more than a day?

16 A. In a 24-hour period.

17 Q. If that's your definition of the day, I accept
18 that as -- that's fine.

19 A. Correct.

20 Q. All right. Were you ever in the hole for more
21 than 24 hours?

22 A. No.

23 Q. And I assume that -- or may I assume that on
24 some of those occasions, you were in the hole for less
25 than 24 hours or wa-- was it always 24?

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1 A. It was -- it was less. Most generally, they
2 would find the tool.

3 Q. Is a missing tool the only reason why you were
4 in the hole when you were at Warren?

5 A. Correct.

6 Q. Were you ever the victim of any violence --
7 physical violence in Warren by other inmates?

8 A. Yeah.

9 Q. On how many occasions?

10 A. Several.

11 Q. I know you know what that means but I don't so
12 what are you -- what's your definition of several?

13 A. Prison is extremely violent and you have to
14 stand your ground every day. You want me to put a number
15 on times how many times someone came up to me and wanted
16 to try something?

17 I don't know how many times. My daily thing was
18 about survival every day. That's all I have to -- that's
19 all I had.

20 Q. My question was -- and I -- and maybe it was
21 unclear. If -- if it was, I apologize. So let me see if
22 I can ask it a little differently.

23 On how many occasions, if any, were you
24 physically assaulted by another prisoner while you were in
25 Warren?

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1 A. You want a number?

2 Q. I want your best estimate unless you know a
3 specific number.

4 A. My best estimate would be over two or three
5 dozen times.

6 Q. Okay. And did any of those assaults require you
7 to receive medical care or treatment?

8 A. No.

9 Q. Were you assigned to the maintenance department
10 during your entire incarceration at Warren?

11 A. No.

12 Q. What other departments were you assigned to in
13 addition to maintenance while you were incarcerated at
14 Warren?

15 A. Was in the horticulture program -- school.

16 Q. What'd you do in the horticulture program?

17 A. Studied plants.

18 Q. So that was actually a -- a -- an educational
19 experience?

20 A. Correct.

21 Q. How long were you assigned to the horticulture
22 study program?

23 A. A year.

24 Q. And how long were you assigned to the
25 maintenance department?

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1 A. Five, six, seven years.

2 Q. So you're there a total of ten. What other
3 departments were you assigned to in addition to
4 maintenance and the horticulture schooling program?

5 A. Community service, which also carried over to my
6 maintenance job for a period of time.

7 Q. Help me to understand what -- how that works
8 please.

9 A. I worked the maintenance shop and did the
10 community service through the maintenance shop.

11 Q. What type of community service did you do?

12 A. I had thousands of hours of community service.
13 When I was with the maintenance department, I built
14 furniture, I built cabinetry, I built props for various
15 organizations.

16 I built props for the Cincinnati flower show for
17 six years through the maintenance shop and the community
18 service program.

19 Q. And participating in the community service
20 program, did that work towards potential for early
21 release?

22 A. No.

23 Q. Okay. So that was an assignment you got rather
24 than a request you made?

25 A. I requested to do the community service.

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1 Q. Why?

2 A. Because it's something I wanted to do with my
3 time was try to make the world a better place out of the
4 hell that I was in.

5 VIDEOGRAPHER: This will be the end of media
6 unit number four. The time is 2:31 p.m. We are now off
7 the record.

8 (A brief recess was taken.)

9 VIDEOGRAPHER: This will be the beginning of
10 media unit number five. The time is 2:37 p.m. We are now
11 back on the record.

12 BY MR. RASKIN:

13 Q. Mr. Gillispie, I believe you testified that
14 after approximately ten years of incarceration, you were
15 transferred out of Warren Correctional. And where were
16 you transferred to?

17 A. London Correctional.

18 Q. Do you know the reason for your transfer?

19 A. Security level drop.

20 Q. And so what's your understanding of the security
21 level at London?

22 A. Medium minimum.

23 Q. Medium to minimum?

24 A. When I was there, it was medium minimum.

25 Q. And in terms of the effect on your daily life,

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1 what was the difference between being incarcerated at
2 Warren and at London?

3 A. Going from a two-man cell to a dormitory.

4 Q. Any other change?

5 A. Yeah, you was sharing a building with 500
6 people, seven toilets, 14 shower heads, 21 sinks, seven
7 urinals with approximately 500 people. No cell to go
8 into. You had a cubicle with another person.

9 Q. So did you consider London Correctional to be
10 better for you or worse for you than Warren?

11 A. You take the good with the bad. You had a
12 little more freedom to go out onto the yard but you slept
13 in the open.

14 Q. Where were you assigned to work while
15 incarcerated at London?

16 A. I was assigned to the carpentry school.

17 Q. And did that mean that you were learning the
18 carpentry trade?

19 A. I was an instructor.

20 Q. Was that the only assignment you had at London?

21 A. When the -- in -- when the staff instructor
22 retired, they closed the program. I went to the
23 recreation department as maintenance.

24 Q. So how long were you in carpentry?

25 A. Approximately four years, three years.

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1 Q. And how long were you in recreation?

2 A. Until my release.

3 Q. Help me -- how many more years was that?

4 A. If I was there ten years, I spent three or four
5 in the school. Then I was --

6 Q. Approximately six?

7 A. -- six or seven years.

8 Q. What did -- what'd you do at recreation?

9 A. Maintenance the equipment.

10 Q. Were you the victim of any assaults while at
11 London?

12 A. No different from Warren. You have to establish
13 yourself in a new prison.

14 Q. So how many times were you assaulted
15 approximately?

16 A. It goes back to the -- at London, maybe eight or
17 ten approximately.

18 Q. Any injuries requiring medical treatment?

19 A. No.

20 Q. Have you now described for me all of the
21 assignments that you had at both London and Warren?

22 MR. OWENS: Objection. Form. It's vague.

23 THE WITNESS: To the best of my knowledge, yeah.

24 BY MR. RASKIN:

25 Q. Okay. The photo array which you were questioned

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1 about by Mr. Herman, you complained of the color of the
2 background of some of the photos that you had a full head
3 shot, whereas some of the other persons depicted did not
4 have a full head shot, as you called it. There was glossy
5 versus mat finish. You remember that -- the question that
6 you were asked and those answers that you gave?

7 A. Yes.

8 Q. That was all brought out at your trial, wasn't
9 it?

10 A. Correct.

11 Q. As a matter of fact, the -- the -- the focus
12 of -- of your defense strategy was misidentification and
13 that you never should have been a part of that photo
14 array, wasn't it?

15 A. Yes.

16 Q. Okay. And the jury rejected that strategy,
17 didn't it?

18 MR. OWENS: Objection. Form, foundation.

19 THE WITNESS: I assume.

20 BY MR. RASKIN:

21 Q. Well, you got convicted?

22 A. Correct.

23 Q. Okay. The hair evidence, are you aware of why
24 the hair evidence was not disclosed during your first
25 trial?

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1 A. Me personally, no.

2 Q. Yes, sir. Were you aware that al-- that that
3 evidence was always in the possession of the Bureau of
4 Criminal Identification?

5 A. That was my --

6 MR. OWENS: Objec-- objection. Vague.

7 THE WITNESS: That was my assumption.

8 BY MR. RASKIN:

9 Q. Okay. And your assumption proved to be correct,
10 didn't it?

11 A. During the trial, there was another person who
12 was handling evidence by the name of Dias (phonetic) so,
13 you know, I don't know what their chain of command and
14 custody was.

15 Q. Okay. You were asked some questions ab-- by
16 Mr. Herman about the source of your income and your
17 answers were a little unclear to me. You said you receive
18 Social Security. Are you receiving -- is that correct?

19 A. Yes.

20 Q. All right. And you're how old?

21 A. Fifty-three.

22 Q. Okay. So are you receiving Social Security
23 income disability?

24 A. I don't believe it's disability --

25 Q. Is it --

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1 A. -- income.

2 Q. -- SSID?

3 A. I personally don't recall. I don't remember
4 which one it is. I have a problem with this SSID because
5 I'm -- I -- as far as I know, I -- my back is the issue
6 that I have.

7 Q. Right, okay. And did you have to go to a doctor
8 who -- who examined you and then wrote a report describing
9 whether or not you could work because of your physical --

10 A. Correct.

11 Q. -- condition? And -- and was it the doctor's
12 opinion that you could not work because of your back?

13 A. Correct.

14 Q. And did you then apply for Social Security
15 income because you were unable to work?

16 A. Correct.

17 Q. And did the Social Security Administration
18 approve your application?

19 A. They did.

20 Q. And are you still receiving those benefits?

21 A. Correct.

22 Q. Okay. And how much do you receive a month from
23 Social Security?

24 A. 620 some dollars.

25 Q. And what would be your best estimate of the

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1 amount of revenue that you earn from the speaking
2 engagements that you described in response to Mr. Herman's
3 questions on -- annually?

4 A. Seven to \$10,000.

5 Q. Okay. Now I understood your answers to some of
6 Mr. Herman's other question concerning your decision not
7 to apply for employment outside of the home because of
8 your desire to spend time with your parents.

9 Have you ap-- have you applied for any sedentary
10 work that you can do remotely from the home that you share
11 with your parents?

12 A. Up until just recently, I was able to sit down
13 for -- longer than 20 minutes. But I was also just
14 recently able to walk more than 30 yards. Before my
15 surgery, I couldn't sit nor stand for any amount of time.

16 Q. But now your surgery has helped and you're able
17 to sit, stand and walk for much longer periods of time
18 than before?

19 A. Not much longer but -- more.

20 Q. Well, you've been sitting here for -- probably a
21 couple two, three hours before --

22 A. Right.

23 Q. -- getting up, right? So you're able to --

24 A. No, I sat about a hour and then got up.

25 Q. Well, our watches must not work the same way but

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1 okay. Is that your testimony nonetheless, that you feel
2 like you can sit for an hour and then you've got to get up
3 because of the pain?

4 MR. OWENS: Objection to the form of the
5 question.

6 THE WITNESS: Correct.

7 BY MR. RASKIN:

8 Q. Okay. So while I appreciate that answer, I
9 guess I'm still looking for an answer to my question.
10 Have you applied for any sedentary work that you can do
11 remotely from your parents' home?

12 A. I've not applied for any employment.

13 Q. Okay. And do you intend to do so as long as
14 your folks are alive?

15 A. As long as my parents are taking a breath, I
16 will be with them.

17 Q. So is it -- is the answer to my question you do
18 not intend to apply for employment so long as your parent
19 are alive?

20 A. At this time.

21 Q. Since your release from prison, have you
22 reestablished any of your acquaintances or friendships
23 with the people that you were friends and acquaintances
24 with before your convictions?

25 A. I never lost them.

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1 Q. Okay. So every one who was your friend before
2 you were convicted, continues to be your friend today?

3 A. That's correct.

4 MR. OWENS: Objection. Form. Go ahead.

5 THE WITNESS: That's correct.

6 BY MR. RASKIN:

7 Q. Before you were convicted, did you belong to any
8 organizations, churches, fraternal organizations, anything
9 like that?

10 A. Not that I recall.

11 Q. Since your release from prison, have you joined
12 any.

13 A. No.

14 Q. Have you attempted to join any that declined to
15 have you be a member?

16 A. I haven't applied.

17 Q. Okay. So no church organization of any kind or
18 organization of any type has said to you we don't want you
19 become a part of our group?

20 A. I haven't applied for any.

21 Q. Okay. Did Miss Strohman ever give you a gold
22 chain as a gift?

23 A. I don't recall.

24 Q. Okay. If she told Detective Moore that she did,
25 would you have any facts to share with us that that's

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1 untrue or incorrect?

2 A. At some point, she has probably tried to give me
3 jewelry and I -- I don't wear it.

4 Q. Well, I see you got a ring on.

5 A. Yeah.

6 Q. What's -- what's -- is there some significance
7 to the ring?

8 A. There's extreme significance to this ring. This
9 is a ring for an exoneree you get when you are exonerated.

10 Q. Well, when the --

11 A. The court does not have to say you've been
12 exonerated. There's a brotherhood through this
13 exoneration ring.

14 Q. But that --

15 A. And I will wear this ring anywhere I go.

16 Q. May I see it?

17 A. Absolutely. And I will explain it to you if you
18 would like me to.

19 MR. OWENS: Just --

20 MR. RASKIN: Sure.

21 MR. OWENS: Answer his questions.

22 BY MR. RASKIN:

23 Q. So -- I would like you to. So why don't you go
24 ahead and explain to me what the -- what the significance
25 of the ring is and where you got it and what it means to

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1 you. Okay?

2 A. This is a gift to all exonerees from the first
3 death row DNA exoneree in America, Kirk Bloodsworth, since
4 his release, became a jeweler and is on a mission to give
5 at this time today 2,297 people an exoneree ring.

6 Q. So when you say he, tell me who he is.

7 A. Kirk Bloodsworth.

8 Q. Kirk Bloodsworth. And you're saying he was the
9 first person released from prison through the use of DNA
10 evidence as you understand it?

11 A. From death row.

12 Q. The first person released from death row?

13 A. Correct.

14 Q. And so -- I didn't mean to inter-- interrupt
15 you. Go ahead. So Kirk has now become a jeweler, is that
16 right?

17 A. Correct.

18 Q. And so did -- did he send you that ring?

19 A. Yes, he did.

20 Q. And does -- do all of the rings look the same?

21 A. The only difference is death row exoneree or
22 exoneree.

23 Q. Got it. Okay. And was Mr. Bloodsworth declared
24 innocent by a court?

25 A. I don't know what his final outcome was.

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1 Q. Okay. What impact, if any, did DNA evidence
2 have on your case?

3 A. The DN-- the -- the evidence ended up being
4 missing.

5 Q. I'm sorry? I --

6 A. The evidence was missing.

7 Q. No, no. That wasn't my question. My question
8 is what impact, if any, did DNA have on your case?

9 A. None.

10 Q. That's what I thought. Okay. Okay. You had
11 testified that once your house sold, you used some of the
12 proceeds to pay for your defense costs but I didn't hear
13 how much that was. Do you know?

14 A. When my house sold, I gave the money to my
15 parents to do with what they felt was right.

16 Q. Okay. So how much money did you give your
17 parents?

18 A. I bought the house for 42. I sold the house for
19 54.

20 Q. Was there a mortgage against it?

21 A. Yeah.

22 Q. How much was the mortgage?

23 A. Don't recall.

24 Q. How much was the net?

25 A. Approximately ten grand.

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1 Q. Okay. And that approximate \$10,000, you gave to
2 your parents to do what they thought -- what they wanted
3 to?

4 A. Correct.

5 Q. Okay. Do you know what the kotal-- total cost
6 of your criminal defense was?

7 A. No.

8 Q. How many houses did you flip before you went to
9 jail?

10 A. Me personally?

11 Q. Yeah.

12 A. The one I bought when I was 21 and the one I
13 sold when I was locked up. Me --

14 Q. That's --

15 A. -- personally.

16 Q. That's the one that you just --

17 A. Correct.

18 Q. -- told me about where you -- where you netted
19 approximately \$10,000?

20 A. Correct.

21 Q. All right. That's the only house that you
22 flipped?

23 A. No.

24 Q. I thought you just told me that you personally
25 flipped that house and that was the only house you

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1 flipped.

2 A. I bought a house when I was 21 years old.

3 Q. Yes, sir.

4 A. Fixed it. Sold it.

5 Q. When?

6 A. I was 21. So -- what year would that be?

7 Q. No, I mean did you fix it and sell it in the
8 same year.

9 A. No.

10 Q. So --

11 A. It was about a year and a half.

12 Q. Okay.

13 A. From the purchase.

14 Q. And how much money did you make on that
15 transaction?

16 A. About approximately \$10,000.

17 Q. Okay. And what did you do with that money?

18 A. Started seeking out another house.

19 Q. And did you buy another -- a second house?

20 A. That's correct.

21 Q. And did you fix that up and flip it?

22 A. Correct.

23 Q. And how much did you make off that sale of the
24 second house?

25 A. \$10,000 approximately.

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1 Q. So did you get your first 10,000 back or did you
2 now have 20,000 that you had netted, ten from each house?

3 A. Approximately 20,000.

4 Q. Okay. And what'd you do with that?

5 A. With?

6 Q. The 20.

7 A. Well, between the first ten that I got and into
8 the next, it was -- I didn't put the 20 -- the 10,000 into
9 the house total from what I had. It was spent --

10 Q. Okay.

11 A. -- living.

12 Q. Because you were -- you were actually earning a
13 living, at least in part, flipping houses?

14 A. It was a hobby.

15 Q. I see. So were you making about 10,000 a year
16 doing that?

17 A. No.

18 Q. How much --

19 A. Not a year.

20 Q. -- would you make in a year?

21 A. Flipping houses?

22 Q. Yeah.

23 A. I flipped two houses. Took a year and a half
24 approximately to flip the house so, no, it was not a
25 annual --

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1 Q. So you're --

2 A. -- income.

3 Q. So it -- so it would have taken you
4 approximately three years to flip two houses?

5 A. Will say yes.

6 Q. And you made about 10,000 on each flip?

7 A. Correct.

8 Q. Okay. Now in addition to that, were you also
9 working at GM at that point?

10 A. Correct.

11 Q. Okay, all right. How much were you making at
12 GM?

13 A. When I started, I was making 14.50 an hour,
14 1984.

15 Q. And how about when you left?

16 A. When I left, they had cut us to \$7.50.

17 Q. 'Cause GM was having some financial problems?

18 A. They were going through changes. I don't know
19 what their status was.

20 Q. Okay. Did you have any other source of income
21 apart from the job that you had at GM and however much you
22 earned from flipping houses up until the time of your
23 conviction?

24 A. I was doing remodeling for real estate companies
25 in town.

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1 Q. Okay. And how much were you earning doing that?

2 A. It was just odd jobs.

3 Q. So if -- if somebody needed you and you were
4 available, you'd pick up the work?

5 A. Correct.

6 Q. So on average, what would you say you earned
7 doing that per year?

8 A. A couple thousand dollars a year.

9 Q. Have we now talked about all of the sources of
10 your income during the period of time leading up to your
11 arrest and incarceration?

12 A. No.

13 Q. Okay. What else?

14 A. Union carpenter apprentice.

15 Q. And when -- during what year were -- year or
16 years were you a union carpenter apprentice?

17 A. After I left General Motors.

18 Q. Okay. When -- let -- I guess I ought to be a
19 little bit more -- organized. In what year did you leave
20 General Motors?

21 A. I don't recall what year it was.

22 Q. Okay. Well, how long had you been gone from
23 General Motors before you got arrested?

24 A. Maybe three months. Four months.

25 Q. And was that when you were a carpenter's

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1 apprentice?

2 A. Correct.

3 Q. And how much did you earn doing that?

4 A. They start you at 7.50. You get a quarterly --
5 or a -- a -- every six months, you got a 50-cent raise.

6 Q. Okay. But you weren't there for six months?

7 A. No.

8 Q. Okay. All right. Did Mr. Wolfe have anything
9 to do with your leaving General Motors that you're aware
10 of?

11 A. The day I left, no, I'm not aware of any.

12 Q. Okay. Were you terminated or did you resign?

13 A. The situation at hand was I was the low man on
14 the totem pole. A two-hour overtime occurred every day
15 during the deconstruction of a building. So I was the guy
16 who was assigned to that.

17 The job was a two-hour gig, 3:00 to 5:00 after
18 your shift. Most of the other guys didn't want it because
19 it was two hours. They wanted four.

20 So six, eight weeks of this deconstruction,
21 every day, I am on the job down there when they're dis--
22 dismantling the building.

23 I had my work from my rehab jobs. I had my
24 checks from GM, couldn't cash, because this was before the
25 banks did computer stuff.

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1 Told the guys we need to quit a little early
2 today. They said that's great. And we quit. When I came
3 back to work they said who do you think you are shutting
4 the job down.

5 At that point, I didn't care who they thought I
6 was. I handed my stuff and said I'm done and they said
7 you're fired.

8 Q. So at least as far as GM told you it was
9 concerned, you were terminated because you had shut a job
10 down early without permission to do so?

11 A. Correct.

12 Q. I don't believe I have any further questions at
13 this time. Thank you, sir.

14 MR. DETERS: Mr. Gillispie, my name is Jon
15 Deters. I represent Thomas Angel, John DiPietro and Steve
16 Gray. I do not have any questions right now but I may have
17 some at the very end.

18 CROSS-EXAMINATION

19 BY MS. KEETON:

20 Q. Sir, my name is Anne Keeton and I represent
21 Robert Miller. I do have a few questions for you. It's
22 my understanding you knew Robert Miller in a professional
23 capacity, is that correct?

24 A. Correct.

25 Q. Okay. Did you know him in any other capacity or

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1 have any other relationship with him?

2 A. No.

3 Q. Okay.

4 MR. OWENS: I'm sorry, is my computer in the
5 screen, sir?

6 VIDEOGRAPHER: A little bit.

7 MR. OWENS: Sorry.

8 BY MS. KEETON:

9 Q. How would you describe your professional
10 relationship with Mr. Miller?

11 A. He was my supervisor.

12 Q. Was it a positive supervisor/employee
13 relationship?

14 A. I tried to keep it that way. I was trying to
15 get employed.

16 Q. Okay. Did he keep it that way as well?

17 A. Most of the time, yeah.

18 Q. Okay. Any times that you can think of where you
19 didn't feel like it was a good relationship?

20 A. There could have been issues. I -- I don't
21 recall any right offhand.

22 Q. Okay. Was there any -- to sort of echo
23 Mr. Raskin -- any ill will or bad blood that you're aware
24 of between you and Mr. Miller during your employment at
25 GM?

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1 MR. OWENS: Objection to the form of the
2 question. Go ahead.

3 THE WITNESS: Ask the question again.

4 BY MS. KEETON:

5 Q. Sure. Was there any ill will or bad blood
6 between you and Mr. Miller during your employment at GM of
7 which you're aware?

8 A. Not that I was aware of at that time.

9 Q. Okay. Did you file any employment grievances or
10 complaints involving Mr. Miller while you were employed
11 with GM?

12 A. I didn't have that option.

13 Q. Okay. Did you want to pursue that option?

14 A. It wasn't an option I had.

15 Q. Okay. Was there ever an occasion where you
16 wanted to pursue a complaint or grievance against
17 Mr. Miller?

18 A. I don't recall any.

19 Q. Okay. And it's my understanding, in fact, when
20 he would provide you with reviews -- let me back up. He
21 provided you with employment reviews, is that correct?

22 A. I would assume he did.

23 Q. Okay. And when he did provide you with those
24 employment reviews, they were overall good reviews,
25 weren't they?

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1 A. I don't recall ever getting them.

2 Q. Okay. Were you ever made aware that you had
3 received poor performance evaluations?

4 A. Neither way.

5 Q. Okay. Who was it at GM who actually fired you?

6 A. Stapleton.

7 Q. Okay. Do you claim that Mr. Miller had any
8 involvement in your conviction?

9 MR. OWENS: Objection. Form. Go ahead.

10 THE WITNESS: I don't know.

11 MS. KEETON: Do you have any knowledge,
12 information or evidence that Mr. Miller met with or spoke
13 with Miami Township police personnel?

14 MR. OWENS: Objection. Form. Go ahead.

15 THE WITNESS: I don't know.

16 MS. KEETON: Well, you -- the question was do
17 you have any knowledge, information or evidence and your
18 response is I don't know, which would then be I don't know
19 if I have any knowledge, information or evidence or are
20 you saying no, I have no knowledge, information or
21 evidence?

22 THE WITNESS: No --

23 MR. OWENS: Objection.

24 THE WITNESS: -- I have no knowledge. Sorry.

25 MS. KEETON: You're fine.

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1 MR. OWENS: Objection to the form of the
2 question.

3 MS. KEETON: Do you have any knowledge,
4 information or evidence that Robert Miller had any
5 connection with the Miami Township police department?

6 MR. OWENS: You mean his personal knowledge,
7 right?

8 MS. KEETON: Right. Does --

9 MR. OWENS: Okay.

10 MS. KEETON: -- he have any personal knowledge,
11 information or evidence?

12 THE WITNESS: No.

13 BY MS. KEETON:

14 Q. Okay. I think I heard that you told Mr. Herman
15 that you had not filed a wrongful imprisonment claim with
16 the Court of Claims, is that correct?

17 A. Correct.

18 Q. Have you sought a wrongful imprisonment
19 determination from the Common Pleas Court?

20 A. Not at this time.

21 Q. Okay. Are you familiar with what those things
22 are?

23 A. I -- I believe I am.

24 Q. Okay. So are you familiar and aware then that
25 if you obtain a wrongful imprisonment determination from

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1 the Common Pleas Court and you file a claim with the Court
2 of Claims, you are -- in fact, can be reimbursed and, in
3 part, I assume you would pass it on to your parents but
4 you could be reimbursed for your attorney's fees, and
5 expenses as well as receive some compensation for your
6 time of incarceration, were you aware of that?

7 A. Compensation for my time incarcerated?

8 Q. Yes, sir.

9 A. There's no compensation for 20 years that's
10 lost.

11 Q. Sir --

12 MR. OWENS: Just answer the question.

13 BY MS. KEETON:

14 Q. -- were you aware that you can file a claim with
15 the Court of Claims and receive some monetary compensation
16 for your time of incarceration?

17 A. Yes.

18 Q. Okay. And you've chosen not to do that, is that
19 correct?

20 A. Yes.

21 Q. Okay. Do you have any knowledge, information or
22 evidence that Mr. Miller entered into an agreement with
23 anyone either at Miami Township police department or with
24 anyone at GM in any way respecting your arrest or
25 conviction?

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1 MR. OWENS: Objection. Form.

2 THE WITNESS: No.

3 MS. KEETON: Okay. I don't have any other
4 questions.

5 CROSS-EXAMINATION

6 BY MR. SCHULTZ:

7 Q. Mr. Gillispie, my name's Matt Schultz. I'm
8 representing Rick Wolfe. I have a few questions for you
9 also.

10 You mentioned that you did not file a grievance
11 as part of your termination because that was not an
12 option, is that correct?

13 A. Correct.

14 Q. Okay. Was that because of your status as a
15 non-permanent employee?

16 A. Correct.

17 Q. During your time as an employee of GM, did you
18 ever interact directly with Rick Wolfe?

19 A. On occasion when he would come to the various
20 plants.

21 Q. Explain to me what the average occasion like
22 that -- how would -- that would work?

23 A. He was a person who was able to drive into the
24 plant so you would register their vehicle as someone
25 entering the plant.

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1 Q. And that was the extent of your interaction with
2 Mr. Wolfe during your employment?

3 A. He was the head supervisor of everything. I'm
4 sure we had general conversations about the day or
5 whatever.

6 Q. Is there any particular incident that -- that
7 you recall?

8 A. No.

9 Q. Okay. Do you have any personal knowledge that
10 leads you to believe that Mr. Wolfe was involved in
11 choosing the photos that were used in the photo array?

12 A. No.

13 Q. I apologize, I'm trying not to ask questions
14 that you've already answered. I'd like to direct your
15 attention to your first amended complaint. Does he still
16 have a copy of that in front him?

17 MR. OWENS: He never had a copy.

18 THE WITNESS: I never --

19 MR. SCHULTZ: He never --

20 THE WITNESS: -- had a copy.

21 MR. SCHULTZ: -- had a copy? Okay. In that
22 case, I will read you the relevant portions.

23 MR. OWENS: Would you like me to put a copy in
24 front of him?

25 MR. SCHULTZ: If you've got one. That might

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1 make it easier on him.

2 MR. OWENS: Where you at?

3 MR. SCHULTZ: I'm at page 19, count one.

4 MR. OWENS: One second. I'm actually -- this is
5 -- that was the first time attempt and it failed. Is your
6 copy clean? It's not?

7 MR. HERMAN: It's not.

8 MR. SCHULTZ: I can just read it to him.

9 MR. OWENS: Go ahead.

10 MR. SCHULTZ: I can read -- okay. So paragraph
11 77 of your first amended complaint, under count one,
12 suppression of exculpatory material, asserts that the
13 defendant officers, GM defendants, county defendants -- to
14 the -- defendants acting individually and in conspiracy
15 with each other, destroyed, failed to disclose or
16 otherwise withheld and/or suppressed exculpatory
17 information and material from the prosecution, and thus
18 from plaintiff.

19 Do you have any personal knowledge that
20 Mr. Wolfe did anything in furtherance of such a
21 conspiracy?

22 MR. OWENS: Objection to the form of the
23 question.

24 THE WITNESS: No.

25 BY MR. SCHULTZ:

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1 Q. Okay. And David, I'm not sure if this helps but
2 I'm flipping forward to the next page. And I'm looking at
3 page 20, paragraph 84, under count two, suggestive
4 identification.

5 It says Defendants Moore and Wilson, acting
6 individually and in conspiracy with each other, GM
7 defendants, used improper and suggestive procedures to
8 cause plaintiff to be misidentified as the perpetrator.

9 Do you have any personal knowledge about
10 anything that Mr. Wolfe might have done in affirm--
11 furtherance of that sort of conspiracy?

12 A. No.

13 Q. Okay. Thank you. Flipping to -- to page 21,
14 count three, fabricated evidence, specifically paragraph
15 91, which says Defendants Moore and Wolfe, acting in cos--
16 conspiracy with the remaining defendant officers and GM
17 defendants fabricated evidence, including without
18 limitation false police reports, fabricated statements
19 attributed to wit-- attributed to witnesses and their own
20 fabricated testimony offered at both trials.

21 Once again, do you have any personal knowledge
22 of anything Mr. Wolfe might have done in furtherance of
23 that conspiracy?

24 A. No.

25 Q. Thank you. Then the next page under count

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1 four -- I think it's supposed to read -- malicious
2 prosecution, paragraph 98 on page 22, says Defendants
3 Moore, Wilson, Angel, Scothorn, DiPietro, other identified
4 members of the Miami Township police department acting in
5 conspiracy with GM defendants Stapleton, Miller, D. Burke,
6 R. Brook-- R. Burke and other identified persons
7 instigated and continued the prosecution of plaintiff
8 without probable cause and acting out of bounds.

9 Again, do you have any personal knowledge of
10 anything Mr. Wolfe might have done in order to further
11 that prosecution?

12 A. No.

13 Q. Thank you. I think as far as count five goes,
14 you already answered that question. And six. And eight.
15 Do you have any personal knowledge of when exactly
16 Mr. Wolfe worked for the Miami Township police department?

17 A. No.

18 Q. Okay. Do you have any personal knowledge
19 regarding any personal relationships Mr. Wolfe may have
20 had with employees of the police department?

21 A. Ask it again.

22 Q. Do you have any personal knowledge regarding any
23 personal relationships that Mr. Wolfe may have had with
24 members of the police department?

25 A. I don't know.

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1 Q. Okay. Meaning you don't know if you do or
2 there's nothing that leaps to mind?

3 A. Nothing that mo-- comes to mind.

4 Q. Okay. I'm going to represent to you that other
5 witnesses ha-- witnesses have testified that your title,
6 while an employee of GM, was supplemental security
7 officer. Does that sound correct to you?

8 A. I don't recall what the official title was.

9 Q. Okay. I don't think I have any more questions.
10 Thank you.

11 CROSS-EXAMINATION

12 BY MR. KASSON:

13 Q. Hi, I'm Pat Kasson. I represent Mr. Wilson and
14 Mr. Scothorn. Have you ever met either of those folks
15 before?

16 A. Not to my knowledge.

17 Q. As we sit here today, do you know who they are?

18 A. No.

19 Q. Okay. Now, you -- you testified earlier that at
20 some point in time, you just got tired of receiving
21 information on your appeals and you just wanted it to
22 stop, is that right?

23 A. Correct.

24 Q. Was that after your second conviction?

25 A. It was during my incarceration.

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1 Q. Okay. So once you were incarcerated after you'd
2 been convicted a second time, is that right?

3 A. Correct.

4 Q. I imagine though initially you were engaged in
5 your defense, is that fair?

6 MR. OWENS: Objection to form.

7 THE WITNESS: Correct.

8 MR. KASSON: You know, initially you were
9 looking at the evidence, you were considering it, you were
10 involved in your defense, fair?

11 MR. OWENS: Objection to the form of the
12 question. Go ahead.

13 THE WITNESS: It was -- no, not really.

14 MR. KASSON: Okay. I mean I would imagine it
15 would be somewhat consuming in your life that you would be
16 wanting to see the evidence, wanting to see what was out
17 there against you?

18 MR. OWENS: Objection.

19 MR. KASSON: Is that -- is that not true?

20 MR. OWENS: Objection to form. Go ahead.

21 THE WITNESS: I didn't really understand what
22 was happening to me at that time.

23 BY MR. KASSON:

24 Q. You sat through both trials?

25 A. Correct.

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1 Q. You paid attention to all the witnesses?

2 A. Correct.

3 Q. Did you testify?

4 A. Yes.

5 Q. Both times?

6 A. Yes.

7 Q. All right. And then -- then quite a bit later,
8 this issue came up with these reports that hadn't been
9 over-- handed over to you that we've talked about today,
10 you understand that, right?

11 A. Yes.

12 Q. And you understand that those reports were
13 instrumental in -- in a habeas petition being granted?

14 A. Correct.

15 Q. And -- and those -- the issue of that -- of
16 the -- those reports came up quite a bit later after your
17 second conviction, fair?

18 A. Absolutely.

19 Q. And it -- it arose -- the issue of these
20 additional reports arose from a member of your defense
21 team, fair?

22 MR. OWENS: Objection. Form. Go ahead.

23 THE WITNESS: Yes.

24 BY MR. KASSON:

25 Q. And the te-- testimony that these reports

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1 existed came from someone who was on your defense team --

2 A. Yes.

3 Q. -- fair? And the testimony came from a member
4 of your defense team years after your trial, right?

5 A. Yes.

6 Q. And it came years after your trial from someone
7 who was on your defense team during your trial, fair?

8 A. Yes.

9 Q. Okay. Did you ever ask anybody on your defense
10 team, you know, why am I first hearing about these missing
11 reports after I've been in jail quite a while, why wasn't
12 this presented at my -- in my first trial?

13 MR. OWENS: Objection to the form of the
14 question. It's privileged. I'm going to instruct you not
15 to answer.

16 MR. KASSON: Let -- let me get this straight,
17 David. I mean we're talking about a member of a defense
18 team testifying at -- in -- in a habeas petition and
19 frankly, in this case, and you're telling me I can't
20 inquire as to why that wa-- hadn't been brought up
21 earlier?

22 I mean we're talking about -- I mean the
23 accusation is, you know, he spent time in jail because
24 these reports were -- were not produced and you're telling
25 me I can't find out why the defense team didn't bring it

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1 up earlier? I mean it goes straight to a credibility
2 issue.

3 MR. OWENS: I think that the scope of the
4 privilege waiver in a Brady situation like this is that
5 you're asking him about his knowledge of -- of the
6 allegedly withheld material like when he found out about
7 it, about -- a question that he might have had with --
8 amongst other defense attorneys about well, why didn't I
9 find about this later or something like that that goes
10 beyond the knowledge of the Brady material unless I'm
11 missing something.

12 MR. KASSON: I mean it goes straight to the
13 credibility of the person providing the Brady material. I
14 mean I -- you're telling -- you're telling me
15 realistically there was a conversation between him and --
16 and one of these folks as to why this took so long to come
17 up and I can't get at that?

18 MR. OWENS: Well, I -- I think that if -- well,
19 it depends who -- what you mean by one of those folks,
20 right?

21 So if -- if he had a conversation with me or
22 Mark Godsey about why didn't this -- how did this happen,
23 when did the -- what did you do -- what --
24 blah-blah-blah-blah, I think that that's absolutely
25 privileged.

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1 MR. KASSON: I -- I didn't --

2 MR. OWENS: It's --

3 MR. KASSON: I didn't mean to imply that.

4 MR. OWENS: Okay.

5 MR. KASSON: All right? When I'm talking your
6 defense team, I'm talking about your original defense team
7 Dennis Lieberman, Fritz and those folks, okay?

8 MR. OWENS: Right, but I also -- well -- so --
9 the specific question was did you ever have a
10 conversations-- conversation with essentially Lieberman or
11 Fritz about why this didn't come up earlier, is that
12 essentially the question?

13 MR. KASSON: Yes.

14 MR. OWENS: Right, so -- okay. So that's the
15 question like why didn't you talk to these specific people
16 about whether or not they knew about this at that
17 particular time. I think that's probably fine.

18 MR. KASSON: Okay.

19 MR. OWENS: But it was -- the -- the way it was
20 initia-- originally asked was I think a little bit
21 unclear.

22 MR. KASSON: Right. And -- and just so we're
23 clear, I'm not talking about -- when I talk about your
24 defense team, I don't mean -- once you got involved in the
25 Innocence Project. I want to talk about Lieberman,

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1 Hoffman and Fritz.

2 Did you ever bring up to those folks, you know,
3 hey, why did it take so long for one of my defense team
4 members, Fritz, to bring up this issue of these documents?

5 MR. OWENS: Objection to the form of the
6 question. Go ahead.

7 THE WITNESS: I started getting real help when
8 the Innocence Project took my case in 2003. And by that
9 time, I was pretty much done with knowing what their
10 individual battles were and what the arguments were going
11 to be, due to the extreme emotional toll it had on me, and
12 requested not to know.

13 MR. OWENS: Could we take a break? Sorry.

14 MR. KASSON: Sure.

15 VIDEOGRAPHER: This will be the end of media
16 unit number five. The time is 15:26 hours. We are now
17 off the record.

18 (A brief recess was taken.)

19 VIDEOGRAPHER: This will be the beginning of
20 media unit number six. The time is 3:34 p.m. We are now
21 back on the record.

22 BY MR. KASSON:

23 Q. You -- you certainly thought about the delay in
24 Fritz's testimony about clearing you as a suspect and
25 these reports, haven't you?

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1 A. No.

2 Q. Did Fritz testify at either one of your cases
3 that he had cleared you as a suspect?

4 MR. OWENS: Objection to the form of the
5 question. What do you mean by either one of the cases?

6 BY MR. KASSON:

7 Q. Did Fritz testify at either one of your trials
8 that he had cleared you as a suspect?

9 A. I don't know.

10 Q. Knowing now that Fritz claims he had cleared you
11 as a suspect, have you thought about why -- why that
12 didn't occur?

13 A. No.

14 Q. Did -- did Fritz testify at either one of your
15 trials that there was this document out there documenting
16 that you'd been cleared as a suspect?

17 A. No.

18 Q. Have you thought about why Fritz hadn't done
19 that at those first two trials and you had to wait all
20 that time for -- for him to -- to speak on that issue?

21 MR. OWENS: Objection. Asked and answered. Go
22 ahead.

23 THE WITNESS: No.

24 MR. KASSON: I mean are you critical of your
25 initial defense team that this testimony from Fritz was

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1 not presented at your first trial?

2 MR. OWENS: Objection. Form. Argumentative.
3 Go ahead.

4 THE WITNESS: No.

5 MR. KASSON: Are you aware of any reason why
6 Fritz could not have testified at your first trial that
7 he, while a police officer, cleared you as a suspect?

8 MR. OWENS: Objection. Foundation. Go ahead.

9 THE WITNESS: No.

10 MR. KASSON: Do you know any reason why Fritz
11 could not have testified at your first trial that he, as
12 an officer, knew of a memo documenting that you had been
13 cleared as a suspect?

14 MR. OWENS: Same objection.

15 THE WITNESS: No.

16 MR. KASSON: Do you have any -- any explanation
17 for the delay in Fritz coming forward with this -- this
18 testimony about this document showing that you'd been
19 cleared as a suspect?

20 MR. OWENS: Same objections.

21 THE WITNESS: No.

22 MR. KASSON: Knowing what you knew about your
23 defense at the time, is it -- there a -- can you even
24 think of a reason why Fritz would have delayed and not
25 testified about what he knew at your first trial?

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1 MR. OWENS: Objection. Asked and answered.
2 This is harassment at this point.

3 MR. KASSON: You can answer.

4 MR. OWENS: Answer.

5 THE WITNESS: No.

6 MR. KASSON: Okay. Certainly at your first
7 trial, every argument you were aware of at that time was
8 made to the jury, correct?

9 MR. OWENS: Objection to the form of the
10 question and the foundation.

11 BY MR. KASSON:

12 Q. You can answer.

13 A. Ask it again.

14 Q. Sure. From your perspective and what you knew
15 of your defense, every argument in your favor that you
16 were aware of at the first trial was made to that jury?

17 A. To the best of my knowledge.

18 Q. And at the second trial, every argument you were
19 aware of was made to that jury, correct?

20 A. To the best of my knowledge.

21 Q. Okay. Your Social Security disability
22 complaint, was there any part of that that was a
23 psychological component?

24 A. No.

25 Q. Talking -- on the application, your Social

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1 Security disability application. To your knowledge, it
2 was just based solely on your back?

3 A. Correct.

4 Q. All right. During the investigation, do you
5 ever recall speaking to Mr. Wilson?

6 A. No.

7 Q. Do you recall speaking to Mr. Scothorn during
8 the investigation?

9 A. No.

10 Q. Do you recall anybody ever mentioning their
11 names?

12 A. Don't recall.

13 Q. Do you have any understanding as to what claims
14 you're bringing against Mr. Wilson?

15 MR. OWENS: Objection. Form. Calls -- calls
16 for privilege. I'm going to instruct you not to answer.
17 BY MR. KASSON:

18 Q. Okay. Are you aware of any facts that suggest
19 to you that Mr. Wilson had done something which resulted
20 in your incarceration?

21 A. No.

22 Q. Are you aware of any facts which suggest that
23 Mr. Scothorn had done something which contributed or
24 resulted in your incarceration?

25 A. No.

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1 Q. Do you know whether Mr. Wilson was involved in
2 your photo -- in the photo spread, either one?

3 A. No.

4 Q. Do you know whether Mr. Scothorn was invi--
5 involved in either photo spread?

6 A. No.

7 Q. Do you know whether Mr. Wilson participated in
8 any type of conspiracy relating to you?

9 MR. OWENS: Objection.

10 THE WITNESS: No.

11 MR. OWENS: Form. Go ahead.

12 THE WITNESS: No.

13 BY MR. KASSON:

14 Q. Do you know whether Mr. Scothorn participated in
15 any type of conspiracy related to you?

16 A. No.

17 Q. Do you know whether Mr. Wilson removed any type
18 of reports from the file -- police file?

19 A. No.

20 Q. Do you know whether Mr. Scothorn removed any
21 type of reports from the police file?

22 A. No.

23 Q. I -- I -- I got to come back to this. Did you
24 know that the -- the payment for the tort recovery fund's
25 in excess of \$50,000 a year?

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1 A. I don't know what that is.

2 Q. Okay. Did you know that you had an avenue to
3 pursue through the Common Pleas Court and Court of Claims
4 for additional out of pocket costs, you -- you would be
5 able to recover for yourself in excess of \$50,000 a year
6 spent -- spent in jail?

7 A. Yes.

8 Q. I'm trying to understand why didn't you pursue
9 that?

10 MR. OWENS: Objection to the form of the
11 question. I'm going to ask him not to answer on the basis
12 of attorney/client privilege.

13 If there's a reason that you can identify that
14 doesn't involve communications with your attorneys, you
15 can, of course, answer.

16 BY MR. KASSON:

17 Q. I'll ask -- I'll reask the question. Is there
18 any reason that you didn't pursue it other than advice of
19 counsel?

20 A. No.

21 Q. That's all I have for you. Thank you.

22 MR. HERMAN: I don't have any follow-up
23 questions.

24 MR. RASKIN: I don't either.

25 MR. DETERS: I don't have any.

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1 MS. KEETON: No further questions.

2 MR. SCHULTZ: Nothing.

3 DIRECT EXAMINATION

4 BY MR. OWENS:

5 Q. I think I have three questions. Mr. Gillispie,
6 did you have any conversations with Fritz about -- have
7 you ever -- exc-- or strike that.

8 Have you ever had any conversations with
9 Mr. Lieberman about whether or not he received the entire
10 file from the Miami Township police department?

11 A. No.

12 Q. Have you ever had any conversations with
13 Mr. Bailey about the work he did on the investigation of
14 the Best Products rapes?

15 A. No.

16 Q. Have you ever had any conversations with
17 Mr. Fritz about the work he did on the Best Products rapes
18 case?

19 A. No.

20 Q. Have you ever had any conversation about
21 Mr. Fritz's work as it concerns eliminating you as a
22 suspect as he testified?

23 A. No.

24 Q. I think that was four but --

25 MR. KASSON: I have a couple follow-up if I

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1 could.

2 MR. OWENS: Sure.

3 RECROSS-EXAMINATION

4 BY MR. KASSON:

5 Q. Did you have conversations with Mr. Lieberman
6 about facts he was aware of and could present to the jury
7 that would tend to show that you were innocent?

8 A. No.

9 Q. Okay. You never had any conversation with
10 Mr. Lieberman about hey, we're going to present the case
11 to the jury this way and argue this type of stuff,
12 correct?

13 A. Probably something.

14 Q. Sure. I mean you -- you talked to him about
15 potential alibis, right?

16 A. Yes.

17 MR. OWENS: Objection to the --

18 MR. KASSON: Is that correct?

19 MR. OWENS: So --

20 MR. KASSON: You opened up the door.

21 MR. OWENS: I don't think I --

22 MR. KASSON: If you -- if you asked him did he
23 have a conversation about A, I can certainly show that
24 there were ten conversations about that topic and it
25 didn't come up. You -- you can't walk that line.

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1 MR. OWENS: I think the only line that I was
2 walking was -- was the one about the -- about the
3 exculpatory files. Like that's it. That's the entire
4 scope. If I asked something broader than that about
5 Mr. Lieberman like -- let's look at --

6 MR. KASSON: We don't have that waiver in Ohio
7 like that, first of all. Second, and -- and I mean I
8 think you understand where I'm going with this.

9 You don't -- you don't get -- and if you
10 instruct him to answer that's fine 'cause we're going to
11 be back here a-- answering these same questions.

12 MR. OWENS: Okay. I don't like the threat so
13 put that away. Let's just resolve this. So I -- I --
14 I -- what I asked was a specific question that I actually
15 just thought was unclear from a question that I -- I
16 thought that you asked earlier that was just more vague.
17 So I -- it was actually just a more pointed version of the
18 question that you already asked.

19 So I don't think that there's any basis for
20 arguing that we've like put all of the communications he
21 had with his criminal defense attorneys about any facts in
22 the case at issue because that's I think what you're
23 saying or am I wrong?

24 MR. KASSON: What I'm saying is you asked him
25 whether he had any conversations with Dennis about this

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1 issue with Fritz, about this exculpatory evidence.

2 And that opens up the door to me asking him
3 whether he talked to Dennis about exculpatory evidence
4 generally, and by implication, if Fritz wasn't mentioned,
5 then -- then it's significant. I don't understand how it
6 could possibly be an issue. I mean --

7 MR. RASKIN: There's no limited waiver in Ohio.
8 It's either you waive it or you don't. And by virtue
9 of -- my position, quite frankly, is by virtue of the
10 affidavit that Mr. Lieberman signed in the post conviction
11 proceedings, there was already a waiver.

12 MR. OWENS: Okay.

13 MR. RASKIN: But -- but even apart from that,
14 the questions that you asked about Mr. Fritz and about
15 Mr. Bailey and -- and the plaintiff's conversations with
16 Mr. Lieberman about those two subjects also constitute yet
17 another waiver.

18 MR. OWENS: Well, so the first is that we're in
19 federal court, not in Ohio. It's like state law. So the
20 question about whether or not a privilege applies in this
21 proceeding is con-- controlled by federal law.

22 MR. RASKIN: No, it isn't.

23 MR. OWENS: There are four pieces.

24 MR. RASKIN: You are -- that is absolutely
25 100 percent incorrect.

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1 MR. OWENS: Okay. I mean that's --

2 MR. RASKIN: I mean it's -- because there is no
3 attorney/client privilege in federal law. It's in state
4 law. And so this federal law applies to the law of the
5 forum as to state law issues.

6 MR. OWENS: I mean I -- I -- I really don't
7 think that like it's worth going down the road of
8 litigating this. I -- I've -- I mean I've litigated it in
9 three different states --

10 MR. RASKIN: Well --

11 MR. OWENS: -- so and applied feder--

12 MR. RASKIN: And --

13 MR. OWENS: -- and applied federal law, right,
14 so there's a --

15 MR. RASKIN: We'll just --

16 MR. OWENS: -- so -- so --

17 MR. RASKIN: So we'll take a run at it here.

18 MR. OWENS: That's fine but it seems rather
19 unnecessary. If you want to ask a specific question about
20 the facts that relate to the Brady material, great. I --
21 I'm not trying to stop you from doing that at all.

22 But if you want to have a conversation about all
23 of the other facts in the case, then I think that there's
24 an issue there.

25 MR. KASSON: Yeah, well, I'm going to ask my

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1 questions and you can just instruct him not to answer if
2 you want.

3 MR. OWENS: Sure.

4 MR. KASSON: All right. You had general
5 conversations with Mr. Lieberman about how he was going to
6 defend the case, correct?

7 MR. OWENS: Objection to the question on the
8 basis of privilege. I going to instruct you not to
9 answer.

10 MR. KASSON: You had general conversations with
11 Mr. Lieberman about facts that he thought might be
12 exculpatory to you that you could present to the jury,
13 correct?

14 MR. OWENS: You can answer.

15 THE WITNESS: Ask the question again.

16 BY MR. KASSON:

17 Q. You had general conversations with Mr. Lieberman
18 about facts that he thought would -- could persuade a jury
19 you were innocent, fair?

20 A. Yes.

21 Q. And in those conversations, Mr. Lieberman never
22 brought anything up about putting Mr. Fritz on the stand
23 to talk about his decision to previously clear you of the
24 crime, fair?

25 A. No.

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1 Q. Okay, it's not fair that Mr. Lieberman did?

2 A. He did not.

3 Q. Okay. Let me ask it again so the record's
4 clear. In the general conversations you had with
5 Mr. Lieberman about stuff you would present to the jury to
6 show your innocence, did he ever indicate that he would
7 put Mr. Fritz on so Mr. Fritz could testify that he had
8 previously cleared you as a suspect?

9 A. No.

10 Q. Okay. You had conversations with Fritz about
11 stuff he had investigated as part of the defense, correct?

12 A. Yes.

13 Q. And in those conversations, did Fritz ever
14 mention that hey, I personally have cleared you previously
15 when I was a police officer?

16 A. No.

17 Q. Okay. And in those conversations with Fritz,
18 did he ever say and in fact, I know there's a document out
19 there showing that you were cleared as a suspect. Did he
20 ever say that?

21 A. No.

22 Q. Okay. Can you -- you had conversations with
23 Bailey, is that right?

24 A. What?

25 Q. I'm sorry, strike that. I've had to do that --

1 I apologize. The long and short of it is nobody brought
2 up anything about Fritz knowing or clearing you until well
3 after you were convicted the second time, fair?

4 A. Fair.

5 Q. All right. That's all I have.

6 MR. OWENS: All right, we'll reserve our
7 signature.

8 MR. RASKIN: Thank you.

9 VIDEOGRAPHER: Stand by. All right, the date is
10 November 5th, 2018. The time is 3:50 p.m. This will
11 conclude the deposition of Mr. Roger Gillispie. We are
12 now off the record.

13 - - -

14
15 (mew) ROGER DEAN GILLISPIE

1 STATE OF OHIO :

2 : ss C-E-R-T-I-F-I-C-A-T-E

3 COUNTY OF GREENE :

4 I, Mary E. Wright, a Registered Professional

5 Reporter and Notary Public in and for the State of Ohio at

6 Large, duly commissioned and qualified;

7 DO HEREBY CERTIFY that the above named ROGER

8 DEAN GILLISPIE, was by me first sworn to testify to the

9 truth, the whole truth, and nothing but the truth; that

10 his testimony was recorded by me in stenotype and

11 thereafter reduced to typewriting; and was taken at the

12 time and place hereinabove set forth, by agreement of

13 counsel as stated.

14 I FURTHER CERTIFY that I am not a relative or

15 attorney of either party, nor in any manner interested in

16 the event of the action.

17 IN WITNESS WHEREOF I have hereunto set my hand

18 and affixed my seal of office on the 16th day of November,

19 2018.

20 *Mary E. Wright*

21 _____

22 MARY E. WRIGHT, RPR

23 NOTARY PUBLIC, STATE OF OHIO

24 My Commission Expires 03-02-21.

25 - - -

	action (2) 5:8;97:5	82:10;136:7;144:8; 163:20;172:16; 182:17;191:14	allowed (1) 64:6	ap- (1) 158:9
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